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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

### **Agriculture and Land Stewardship Department[21]**

Replace Chapter 67

### **Utilities Division[199]**

Replace Analysis

Replace Chapter 15

Insert Chapter 45

### **Economic Development, Iowa Department of[261]**

Replace Analysis

Replace Chapter 79

Replace Chapter 104

Insert Chapter 114

Replace Reserved Chapters 114 to 162 with Reserved Chapters 115 to 162

### **Human Services Department[441]**

Replace Chapter 86

### **Inspections and Appeals Department[481]**

Replace Analysis

Replace Chapter 31

Replace Chapter 41

### **Environmental Protection Commission[567]**

Replace Analysis

Insert Chapter 16

Replace Reserved Chapters 16 to 19 with Reserved Chapters 17 to 19

Replace Reserved Chapter 210 with Chapter 210

### **Public Health Department[641]**

Replace Analysis

Replace Chapter 25

### **Transportation Department[761]**

Replace Chapter 529

### **Index**

Replace "P"



CHAPTER 67  
ANIMAL WELFARE

[Prior to 7/27/88 see Agriculture Department 30—Ch 20]

**21—67.1(162) Animals included in rules.** Dog, as that term is used in the rules, includes hybrid dog mixtures. Animals, as that term is used in rules relating to boarding kennels, commercial kennels, hobby kennels, commercial breeders, dealers, public auctions, animal shelters, and pounds includes dogs and cats. Animals, as that term is used in rules relating to pet shops, includes dogs, cats, rabbits, rodents, nonhuman primates, birds, fish, or other vertebrate animals.

This rule implements Iowa Code sections 162.1 and 162.8.

**21—67.2(162) Housing facilities and primary enclosures.**

**67.2(1) Housing facilities.**

*a.* Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

*b.* Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to rain or snow. Heat, insulation, or bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50° F. or that temperature to which the particular animals are acclimated. Indoor housing facilities shall be provided for dogs and cats under the age of eight weeks and for dogs and cats within two weeks of whelping.

*c.* Indoor and outdoor housing facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the animals. Such ventilation shall be environmentally provided as to minimize drafts, moisture condensation, odors or stagnant vapors of excreta.

*d.* Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

*e.* Ceilings, walls and floors shall be so constructed as to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces.

*f.* Food supplies and bedding materials shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be maintained for cleaning and sanitizing equipment and supplies.

*g.* Washrooms, basins or sinks shall be provided within or be readily accessible to each housing facility, for maintaining cleanliness among animal caretakers and sanitizing of food and water utensils.

*h.* Equipment shall be available for removal and disposal of all waste materials from housing facilities to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to effect the above purposes.

*i.* Facilities shall be provided to isolate diseased animals, to prevent exposure to healthy animals.

*j.* Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Dog runs and exercise areas utilizing wire floors are permissible, provided that they are not injurious to the animals and adequately maintained.

*k.* Group housing is permitted for animals which are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed in the facility. Females in estrus shall not be housed with males, except for breeding purposes.

**67.2(2) Primary enclosures.**

*a.* Primary enclosures shall be of sound construction and maintained in good repair to protect the animals from injury.

b. Construction materials and maintenance shall allow the animals to be kept clean and dry. Walls and floors shall be impervious to urine and other moisture.

c. The shape and size of the enclosure shall afford ample space for the individual(s) to comfortably turn about, stand erect, sit or lie. Not more than 12 dogs or cats shall be housed in the same primary enclosure.

d. Litter pans, containing clean litter, shall be provided at all times for kittens and cats.

e. Means shall be provided to maintain that temperature and ventilation which is comfortable for the species within the primary enclosure. Lighting shall be adequate to allow observation of the animals but they shall be protected from excessive illumination.

f. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised, unless the primary enclosure shall be of sufficient size to provide this exercise.

g. If doghouses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dog involved and shall be attached to the dog by means of a well fitted collar. Such chains shall be at least three times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the doghouse.

**67.2(3) In-home kennel.**

a. For the purposes of this subrule, “in-home kennel” means an individual required to be licensed as a boarding kennel or as a commercial breeder under Iowa Code chapter 162 who maintains or harbors not more than six adult animals (including both breeding animals and surgically sterilized animals) in the individual’s living quarters.

b. Notwithstanding subrules 67.2(1), 67.2(2), and 67.3(2), an in-home kennel shall comply with the following standards:

(1) Food supplies shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food unclean.

(2) Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours. Animals shall be protected from excessive illumination.

(3) Building shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

(4) Facilities shall be provided to isolate diseased animals to prevent exposure to healthy animals.

(5) Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Wire floors are permissible, provided they are not injurious to the animals and adequately maintained.

(6) Group housing is permitted for animals which are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the facility. Females in estrus shall not be housed with males, except for breeding purposes.

(7) If the animals are confined to a restricted area of the living quarters, the restricted area shall meet the space requirements set out in paragraph 67.2(2) “c.”

(8) Litter pans, containing clean litter, shall be provided at all times for kittens and cats.

(9) Means shall be provided to maintain that temperature and ventilation which is comfortable for the species within the primary enclosure or housing facility.

(10) Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised.

(11) Housing facilities shall be cleaned as necessary to reduce disease hazards, and an effective program shall be established and maintained for the control of vermin infestation.

This rule is intended to implement Iowa Code sections 162.8 and 162.9.

**21—67.3(162) General care and husbandry standards.****67.3(1) Feeding and watering.**

a. All species covered under Iowa Code chapter 162 shall be provided with adequate feed as defined in section 162.2(1).

b. Young animals and animals under veterinary care shall be fed at more frequent intervals and with specific diets as their needs shall dictate.

c. All species covered under Iowa Code chapter 162 shall be provided with adequate water as defined in section 162.2(2).

**67.3(2) Sanitation.**

a. Housing facilities and primary enclosures shall be cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.

b. Housing facilities and primary enclosures shall be sanitized at intervals not to exceed two weeks or more frequently as may be necessary to reduce disease hazards. Primary enclosures for dogs and cats in pet shops shall be sanitized at intervals not to exceed 48 hours. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Pressure water systems or live steam may be used for cleaning, if animals are removed while cleaning. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

c. An effective program shall be established and maintained for the control of vermin infestation.

**67.3(3) Veterinary care.**

a. Programs of disease prevention and control shall be established and maintained.

b. Sick, diseased or injured animals shall be provided with proper veterinary care or disposed of by euthanasia.

c. All species regulated under Iowa Code chapter 162 which are infected with contagious diseases shall be immediately placed into facilities provided for in 67.2(1) "i."

d. All dogs and cats transported into housing facilities regulated under Iowa Code chapter 162, excluding pounds and animal shelters, shall have been vaccinated against distemper and rabies, unless exempted by direct recommendation of the owner's veterinarian or exempted by Iowa Code section 351.33 or 351.42.

e. Each commercial breeder shall enter into a written agreement with a veterinarian licensed in this state to provide veterinary care for the animals maintained in the commercial breeder's facility. The agreement shall include a requirement that the veterinarian visit the facility at least once every 12 months for the purpose of viewing all the animals in the facility, making a general determination concerning the health/disease status of the animals, and reviewing the commercial breeder's program for disease prevention and control. If during the course of the visit, the veterinarian identifies an animal that requires a more detailed individual examination to determine the specific condition of the animal or to determine an appropriate course of treatment, then such examination shall be undertaken.

f. If during an inspection of a facility the department finds an animal which appears to have a physical condition or disease which, in the opinion of the inspector, requires a veterinarian's attention, the department may order that the licensee subject the animal to a veterinarian's examination at the licensee's expense. The department may require the licensee to submit written proof of the veterinarian's examination and results of the examination within a time frame set by the department.

**67.3(4) Personnel.**

a. The owner or personnel shall be present at least once in each 24-hour period to supervise and ascertain that the care of animals and maintenance of facilities conform to all of the provisions of Iowa Code chapter 162.

b. A sufficient number of employees shall be utilized to provide the required care of animals and maintenance of facilities during normal business hours.

This rule is intended to implement Iowa Code sections 162.1 and 162.2.

**21—67.4(162) Transportation.****67.4(1) Primary enclosures.**

- a. Primary enclosures utilized in transportation shall be of sound construction and maintained in good repair so as to ensure protection of animals from injury.
- b. Floors and lower sides shall be so constructed or shall be covered on the inner surfaces so as to contain excreta and bedding materials.
- c. Adequate space shall be provided so that the individual(s) contained therein may comfortably turn about, stand erect, sit or lie.
- d. Openings shall be provided in enclosures so that adequate ventilation can be maintained when they are positioned in the transporting vehicle.
- e. Primary enclosures shall be cleaned and sanitized before each trip.
- f. The temperature within primary enclosures shall not be allowed to exceed the atmospheric temperature; moreover the ambient temperature shall not be allowed to exceed 95° F. for a period of more than two hours, nor be allowed at any time to fall below 45° F. unless the animals are acclimated to lower temperatures.

**67.4(2) Vehicles.**

- a. Protection shall be afforded to primary enclosures transported in the vehicle, sheltering the animals from drafts and extremes of hot or cold temperatures to which they are not acclimated.
- b. Primary enclosures used in transportation shall be securely positioned in the vehicle to protect the animals from injury.

**67.4(3) Care in transit.**

- a. Animals in transit shall be provided adequate feed and adequate water as defined in Iowa Code sections 162.2(1) and 162.2(2).
- b. Incompatible animals shall not be placed together during shipment. Females in estrus shall not be placed in the same primary enclosure with a male.
- c. Animals shall be inspected at least once in each six-hour period and their emergency needs attended to immediately.
- d. Animals shall be removed for exercise and their enclosures cleaned if they shall have been en route for a 24-hour period.

**21—67.5(162) Purchase, sale, trade and adoption.**

**67.5(1)** Records shall be made, and retained for a period of 12 months for each dog, cat or nonhuman primate sold, traded, or adopted from a licensee or registered pound or animal shelter. Records shall include date of sale or transfer, identification of animal, names and addresses of seller and purchaser or transferor and recipient, and source of the animal. Records shall be similarly kept on other small vertebrate animals sold or transferred, except that individual identifications shall not be required.

**67.5(2)** Licensees, pounds, and animal shelters shall furnish a statement of sale, transfer, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal. This statement shall include: Name and address of the seller or transferor, name and address of the purchaser or recipient, date of sale or transfer, description or identification of the vertebrate sold or transferred, prophylactic immunization(s) and date(s) administered, and internal parasite medication(s) given and date(s) administered.

**67.5(3)** All vertebrate animals regulated under Iowa Code chapter 162 which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition sufficient to adversely affect the health of the animals are restricted from sale or transfer.

The secretary may order quarantine on premises or housing facilities in which any of the above listed conditions in 67.5(3) shall exist. Quarantine shall be removed when at the discretion of the secretary or the secretary's designee, the disease conditions for which quarantined are no longer evident and the apparent health of the animals indicates absence of contagion.

**67.5(4)** For the purposes of determining an individual's obligation to be licensed under Iowa Code section 162.8, "breeding animal" will include any sexually intact animal over the age of 12 months.

This rule is intended to implement Iowa Code sections 162.6 and 162.8.

**21—67.6(162) Public health.**

**67.6(1)** Animal wardens aiding in the enforcement of the provisions of Iowa Code chapter 162 shall enlist veterinary aid in programming control measures to protect the public from zoonotic diseases which may be suspected to be on the premises of a licensee or registrant of said Iowa Code chapter.

**67.6(2)** Animals, housing facilities, or premises may be placed under quarantine by order of the secretary when it is deemed necessary to protect the public from zoonotic diseases.

**21—67.7(162) Kennels, shelters and other facilities—access, seizure and impoundment.**

**67.7(1)** *Boarding kennels and commercial kennels.*

*a.* Records shall be made, and retained for a period of 12 months for each animal boarded, groomed or trained. Records shall include owner's name and address, identification of animal, duration of stay, service provided and illnesses which have occurred.

*b.* Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

*c.* Group housing is permitted only if the animals are owned by the same person and are compatible.

*d.* Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

*e.* Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons.

*f.* Primary enclosures shall utilize latches which cannot be inadvertently opened, or shall be equipped with some form of locking device so as to prevent the accidental release of the animal contained therein.

**67.7(2)** *Animal shelters and pounds.*

*a.* Dogs, cats and other vertebrates upon which euthanasia may be permitted by law, shall be destroyed only as defined by euthanasia under Iowa Code chapter 162.

*b.* Animal shelters and pounds shall develop and implement a plan providing for the surgical sterilization of all dogs and cats released, unless exempted from this provision in accordance with Iowa Code section 162.20(5).

*c.* Sterilization agreements shall contain the following:

(1) Name, address and signature of the person receiving custody of the dog or cat.

(2) A complete description of the animal, including any identification.

(3) The signature of the representative of the pound or animal shelter.

(4) The date that the agreement is executed and the date by which sterilization must be completed.

(5) A statement which states the following:

1. Sterilization of the animal is required pursuant to Iowa Code section 162.20.

2. Ownership of the dog or cat is conditioned upon the satisfaction of the terms of the agreement.

3. Failure to satisfy the terms of the agreement constitutes a breach of contract, requiring the return of the dog or cat.

4. A person failing to satisfy the sterilization provisions of the agreement is guilty of a simple misdemeanor.

*d.* In addition to records required by 67.5(1), animal shelters and pounds shall maintain, for a period of 12 months, the following records:

(1) Euthanasia records, including date of entry, source of animal, and date of euthanasia.

(2) Sterilization agreements, including confirmation in the form of a receipt furnished by the office of the attending veterinarian.

(3) Disposition records of all animals lawfully claimed by owners, research facilities, or Class B federal dealers.

*e.* A pound or animal shelter may apply in writing for an enforcement waiver pursuant to Iowa Code section 162.20(5), paragraph “*b.*” The application shall include the specific guidelines under which the waiver is being requested and a certified copy of the ordinance providing the basis for the waiver application. A waiver application fee of \$10 shall accompany the application.

*f.* A pound or animal shelter shall be subject to civil penalties as provided in Iowa Code section 162.20(3), paragraph “*c.*” for not procuring and maintaining required records documenting compliance with the sterilization agreement, successfully seeking return of the animal from a noncompliant custodian, failing to effect a sterilization agreement when required for an animal which is released, or seeking legal recourse as provided in Iowa Code section 162.20(4). The pound or animal shelter shall be entitled to appeal pursuant to Iowa Code chapter 17A.

**67.7(3)** *Access to facilities and records.* The premises, housing facilities and records required by Iowa Code chapter 162 shall be open for inspection by authorized personnel of the Iowa department of agriculture and land stewardship during normal business hours.

**67.7(4)** *Seizure and impoundment.*

*a.* “Animals,” as that term is used in this subrule, shall include any dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal. Animals, as that term is used in this subrule, shall not include members of the equine, bovine, porcine, ovine, or caprine species.

*b.* “Seizure and impoundment,” as used in this subrule, may mean either of the following:

(1) The confinement of the animals to the property of the owner or custodian of the animals with provisions being made for the care of the animals pending review and final disposition.

(2) The physical removal of the animals to another facility for care pending review and final disposition.

*c.* Failure of any pound, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction or dealer to adequately house, feed, water or care for the animals in the person’s or facility’s possession or custody may subject the animals to seizure and impoundment. Seizure and impoundment shall be at the discretion of the secretary. Standards to guide discretion shall include, but not be limited to, the following:

(1) An assessment of the condition of the animals, including, but not necessarily limited to, direct visual examination. Such assessment may include procedures and testing necessary to accurately determine disease, nutritional, and health status.

(2) An assessment as to the likelihood that the condition of the animals will deteriorate if action is not taken.

(3) An assessment as to the degree of failure to provide for the animals. Primary consideration will be based on the general health of the animals and the adequacy with which the animals are being fed, watered and sheltered.

(4) An assessment as to the history, if any, of the facility’s compliance, noncompliance, and willingness to take corrective action. Such an assessment will be based on past inspection reports completed by regulatory personnel from the appropriate licensing agency.

(5) Court determination, if any, as to the existence of cruelty, abuse or neglect under Iowa Code chapter 717.

(6) The willingness of the facility to allow frequent monitoring and the ability of the department or local law enforcement officers to provide this service.

(7) A determination as to whether adequate impoundment facilities or resources exist and are available for use by the department for the seizure and impoundment of animals.

*d.* In proceeding under this subrule the department may either:

(1) Petition the court in the county where the facility is located for an ex parte court order authorizing seizure and impoundment, either separately or as part of an action commenced pursuant to Iowa Code chapter 717. The petition shall request an expedited hearing within seven days of the order for seizure and impoundment. The expedited hearing shall determine final disposition of the animals seized and impounded.

(2) Issue an administrative order authorizing seizure and impoundment. The order shall state the finding of facts on which the order was issued. The order shall be personally served upon the owner

or manager of the facility. If the owner or manager cannot be found after a reasonable effort to locate, the notice shall be posted conspicuously at the facility. The notice shall state the time and place of an administrative hearing to determine the appropriateness of the seizure and impoundment; and if such seizure and impoundment is upheld, then the hearing shall determine final disposition of the animals seized and impounded.

The administrative hearing shall be held within three days of the seizure unless a continuance is agreed upon by the department and the owner. A decision at the administrative hearing will not be stayed by the department for more than 48 hours pending appeal without a court order. However, the department may delay the disposition if the department determines the delay is desirable for the orderly disposition of the animals. Unless otherwise provided in this subrule, the department will follow adopted departmental rules on the conduct of the administrative hearing.

*e.* The release of animals for final disposition to the department will allow for the sale, adoption or euthanasia of the animals. Determination of the most appropriate option for final disposition of a specific animal shall reside with the department and be based on, but not limited to, the animal's physical health, the presence of any condition which would necessitate treatment of significant duration or expense, and the appropriateness of the animal as a pet. All due consideration shall be given to the sale or adoption of an animal as the preferable option of disposition.

*f.* Any moneys generated from the sale or adoption of animals shall be used to provide compensation for the cost of care of the animals while impounded or the cost of disposition. Any residual moneys shall be directed to the owner. If the moneys generated from the sale and adoption of the animals are insufficient to meet the costs incurred in caring for the animals, the difference may be recovered in an action against the owner of the animals.

*g.* The department may arrange for impoundment services, including final disposition, with any licensed facility able to adequately provide for the care and disposition of the animals. Animals for which an order is issued authorizing seizure and impoundment shall be individually identified and records maintained relating to their care and final disposition. The department, or their representatives, shall be allowed access during normal business hours to the records and animals impounded.

*h.* In lieu of seizure and impoundment, the secretary may authorize a one-time dispersal of animals, including by sale, as a remedial option. The owner may petition the department in writing for full or partial dispersal. The petition shall address the terms and conditions for dispersal which are being requested. The department may require additional terms and conditions. The terms and conditions governing dispersal will be contingent upon department approval. Such approval shall be in writing.

*i.* Conditions of this subrule, subrule 67.7(3), and Iowa Code sections 162.13 and 162.14 shall likewise apply to all eligible licensees and registrants, whether or not they have been properly licensed by Iowa Code chapter 162.

**67.7(5) Adoption by reference.** The secretary may adopt by reference or otherwise such provisions of the rules, regulations and standards under the federal Acts, with such changes therein appropriate to make them applicable to operations and businesses subject to Iowa Code chapter 162, which shall have the same force and effect as if promulgated under said chapter.

This rule is intended to implement Iowa Code sections 162.3, 162.4, 162.13 and 162.20.

**21—67.8(162) Applicability to federally licensed facilities.** Other than obtaining the certificate of registration from the secretary, any dealer or commercial breeder, and any person who operates a commercial kennel or public auction under a current and valid federal license shall not be subject to further regulation.

This rule is intended to implement Iowa Code subsection 162.11(2).

**21—67.9(162) Acceptable forms of euthanasia.** The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed acceptable by and published in the 2007 American Veterinary Medical Association Guidelines on Euthanasia. A copy of this report is on file with the department.

This rule is intended to implement Iowa Code chapter 162.

**21—67.10(162) Loss of license or denial of license.**

**67.10(1)** If a licensee has its license revoked or relinquishes its license while a revocation action is pending, the licensee shall not be eligible to reapply for a new license for at least three years from the date of the revocation or relinquishment. If a licensee has been found in court to have committed an act of animal cruelty or neglect, the licensee shall not be eligible for a new license for at least five years from the date of the revocation or relinquishment. If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea. The prohibition against relicensure or licensure in this subrule shall include any partnership, firm, corporation, or other legal entity in which the person has a substantial interest, financial or otherwise, and any person who has been or is an officer, agent or employee of the licensee if the person was responsible for or participated in the violation upon which the revocation or conviction was based. The department may waive the three-year bar to relicensure arising from a revocation or relinquishment of a license where a revocation action was pending. Such waiver shall be made on a case-by-case basis. Such a waiver shall only be given if the department finds that the conditions which resulted in the revocation or revocation action have been addressed and there is little likelihood that they will be replicated.

**67.10(2)** If a licensee has its license revoked or voluntarily relinquishes its license, the licensee shall file with the department a written plan detailing the numbers and types of animals in its facilities and how these animals are going to be legally disposed of to ensure that the animals are being humanely handled and to ensure that the remaining animals are being maintained properly. The licensee shall submit this plan to the department no later than ten calendar days from the date of revocation or relinquishment.

This rule is intended to implement Iowa Code section 162.13.

[ARC 8847B, IAB 6/16/10, effective 5/20/10]

**21—67.11(162) Dog day care.****67.11(1) Definition.**

“*Dog day care*” means a facility licensed as a commercial kennel or a boarding kennel and designed and operated with the intention that a dog admitted to the facility is allowed, in compliance with this rule, to mingle and interact with other dogs in one or more playgroups operating in the facility. The purpose of a dog day care is to allow dogs participating in the day care to become socialized through interaction in playgroups with other compatible dogs. A kennel that operates as a dog day care shall not provide overnight boarding or other kennel activities unless, during the time that the day care operation is closed, the kennel is operated in a manner consistent with applicable kennel rules including, but not limited to, paragraph 67.2(1)“*k*” that restricts the commingling of dogs.

**67.11(2) Facility requirements.** A facility licensed to be a dog day care shall comply with the following facility requirements:

*a.* Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of dogs from injury.

*b.* Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to rain or snow. Heat, insulation, or bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50° F or below that temperature to which the particular dogs are acclimated. Indoor facilities shall be provided for all dogs.

*c.* Indoor and outdoor facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the dogs. Such ventilation shall be environmentally provided to minimize drafts, moisture condensation, odors or stagnant vapors of excreta.

*d.* Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and dogs contained therein.

*e.* Ceilings, walls, floors, furniture, and play equipment shall be constructed to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished

surfaces. Upholstered furniture or carpeting shall not be permitted in that portion of the facility to which dogs have access.

*f.* Food supplies and bedding materials shall be stored to adequately protect them from contamination or infestation by vermin or other factors that would render the food or bedding unclean. Separate storage facilities shall be maintained for cleaning and sanitizing equipment and supplies.

*g.* Washrooms, basins or sinks shall be provided within or be readily accessible to each facility for maintaining cleanliness among animal caretakers and sanitizing of food and water utensils.

*h.* Equipment shall be available for removal and disposal of all waste materials from the building to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to achieve the above purposes.

*i.* Facilities shall be provided to isolate any dog that becomes sick or injured or that becomes otherwise incompatible with the other dogs.

*j.* Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the dogs therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown.

*k.* Group interaction is permitted for dogs that are compatible with one another.

*l.* The play area for dogs shall provide for a minimum of 75 square feet per dog.

**67.11(3) Sanitation requirements.** A facility licensed to be a dog day care shall comply with the following sanitation standards:

*a.* All areas to which a dog has access shall be cleaned and sanitized a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

*b.* An effective program shall be established for the control of vermin infestation.

**67.11(4) Operations.** A facility licensed to be a dog day care shall comply with the following operational standards:

*a.* A dog, including a dog owned by the day care owner or a day care employee, shall be admitted into a day care only after the day care has:

(1) Subjected the dog to a preentry screening process that adequately evaluates the temperament of the dog, the dog's ability to interact with other dogs in a positive manner, and the dog's ability to interact with humans in a positive manner. The screening shall include, but is not limited to, obtaining a social history of the dog from the dog's owner. A written record of the testing shall be maintained by the facility for the time the dog is enrolled in the day care.

(2) Obtained from the dog's owner documentation of the medical history of the dog, including the dog's current vaccination status against distemper and rabies, unless exempted by direct, written recommendation of the owner's veterinarian or exempted by Iowa Code section 351.33 or 351.42.

(3) Determined through documentation or from obvious visual inspection that the dog is at least eight weeks of age.

(4) Obtained documentation that the dog has been spayed or neutered, if the dog is over six months of age.

(5) Obtained a written acknowledgment from the dog's owner that the owner understands the inherent risk of injury or disease when dogs owned by different people are allowed to commingle. This written acknowledgment shall be separately signed or initialed by the dog's owner.

*b.* The day care shall separate dogs in the day care into playgroups comprised of compatible dogs. Dogs of incompatible personalities or temperament shall be maintained separately.

*c.* The day care shall not admit any dog into the day care if the dog has a predisposition to be possessive of either the facility or a person owning or working in the facility.

*d.* The day care shall make advance arrangements with a veterinarian to provide emergency veterinary care for dogs at the day care.

*e.* A sick, diseased or injured dog shall be immediately removed from the playgroup and isolated. If circumstances indicate that immediate veterinary care is required, the dog shall be taken to a veterinarian or a veterinarian shall be called to examine the dog. The veterinarian can be either a veterinarian whose services have been contracted for by the day care or the veterinarian designated by the dog's owner, if a timely examination by that veterinarian is feasible.

*f.* Feeding of dogs and giving of snacks to a dog shall only be provided when the dog receiving the food or snack is outside the vision of the other dogs in the playgroup.

*g.* A day care shall not establish a playgroup composed of more than 15 dogs.

*h.* A day care shall employ sufficient staffing so that there is a minimum of one person assigned to each playgroup. The person supervising a playgroup shall be in continuous visual or auditory contact with the playgroup at all times.

This rule is intended to implement Iowa Code sections 162.6 and 162.9.

## **21—67.12(162) Fostering oversight organizations and foster care homes.**

**67.12(1)** As used in this rule, unless the context otherwise requires:

*"Foster care home"* means a private residence that is authorized to provide temporary shelter and care for an animal which has been accepted by a fostering oversight organization.

*"Fostering oversight organization"* means a registered animal shelter or a registered pound, as defined in Iowa Code chapter 162, which has been authorized by the department to utilize foster care homes in its operation.

**67.12(2)** A registered animal shelter or registered pound shall not operate a foster care home or operate an organization that utilizes a foster care home unless the shelter or pound is in compliance with this rule and other applicable provisions of this chapter and Iowa Code chapter 162.

**67.12(3)** A registered animal shelter or registered pound may apply to the department for a permit authorizing the shelter or pound to utilize one or more foster care homes in carrying out its mission of providing for the care and maintenance of an animal which has been taken in or entrusted to the animal shelter or pound. For purposes of this rule, an animal shelter or pound which has been granted such authorization shall be considered a fostering oversight organization.

**67.12(4)** Neither a registered animal shelter nor a registered pound may utilize a foster care home unless the shelter or pound has been granted authorization by the department to be a fostering oversight organization. An animal shelter or pound which uses a foster care home without first obtaining a permit authorizing the shelter or pound to be a fostering oversight organization shall be considered to be operating illegally, shall be subject to suspension or revocation of its license to operate, and may be subject to other penalties authorized in Iowa Code chapter 162.

**67.12(5)** A registered animal shelter or registered pound seeking to obtain a permit to be a fostering oversight organization shall make application to the department on a form prescribed by the department. When feasible, the application shall be submitted to the department at the same time that the registered animal shelter or registered pound submits its certificate of registration renewal application. The permit application shall provide sufficient information to allow the department to determine the ability of the proposed fostering oversight organization to provide adequate screening and oversight of any foster care home operating under the authority of the fostering oversight organization. Such application shall include, but is not limited to, the following information:

*a.* The proposed fostering oversight organization's plan for screening a prospective foster care home. Such plan shall include the criteria to be used by the fostering oversight organization in determining whether a person who will be operating a foster care home is capable of caring for the animals that may be placed in the foster care home.

*b.* The proposed fostering oversight organization's plan for providing oversight to the foster care home. The plan shall include the frequency of inspections of the foster care home by the fostering oversight organization and the criteria to be used by the fostering oversight organization in reviewing the foster care home during periodic inspections. The plan shall also include the actions to be taken by

the fostering oversight organization in the event that the fostering oversight organization determines that the foster care home is not adequately providing for the animals in the foster care home.

*c.* The name, address, and telephone number of the staff person connected with the proposed fostering oversight organization who will have primary responsibility for administering the proposed foster care program.

*d.* The name, address, and telephone number of a secondary staff person connected with the proposed fostering oversight organization who will have responsibility for administering the proposed foster care program in the absence of the primary administrator.

**67.12(6)** The initial approval of a fostering oversight organization shall be in effect only until the next expiration date of the registered pound or registered animal shelter's license. Thereafter, a fostering oversight organization permit renewal shall be concurrent with the facility's certificate of registration renewal, unless circumstances otherwise require.

**67.12(7)** A fostering oversight organization shall require that all persons seeking to operate a foster care home under the fostering oversight organization submit a written application to the fostering oversight organization specifying the proposed foster care home's qualifications, including, but not limited to, the ability of the foster care home to provide adequate care, exercise, feed, water, shelter, space, and veterinary care.

**67.12(8)** A fostering oversight organization shall not be authorized to approve more than 20 foster care homes. In granting a permit to a fostering oversight organization, the department may further restrict the number of foster care homes a particular fostering oversight organization may utilize if the department determines that the fostering oversight organization does not have adequate personnel to supervise the number of foster care homes for which authorization was sought. The department may authorize the fostering oversight organization to approve more than 20 foster care homes only if the department finds that the fostering oversight organization has and maintains adequate personnel assigned to provide sufficient oversight of foster care homes.

**67.12(9)** A fostering oversight organization shall not authorize a foster care home to have in its care more than 4 foster care animals over four months of age or 12 foster care animals less than four months of age, unless the foster care animals less than four months of age are from no more than two biological litters. When a nursing litter is placed in a foster care home, the nursing mother shall not be counted toward any applicable animal limitations for two weeks after the litter is weaned. Any approval of a foster care home shall not be interpreted to limit or override any local government's limitations on the number of animals that may be kept on a single premises.

**67.12(10)** A person who has been found to have engaged in or participated in an act constituting animal abandonment, neglect, cruelty, or abuse shall not be authorized to operate a foster care home. In addition, if a person has had a license or permit issued under Iowa Code chapter 162 or under the United States Department of Agriculture's animal care program revoked or has surrendered that person's license in lieu of revocation, then that person shall not be authorized to operate a foster care home.

**67.12(11)** A fostering oversight organization shall not place a sexually intact animal in a foster care home where there is a sexually intact animal of the opposite sex of the same species, unless the fostering oversight organization determines that the fostered animal is too young to breed. If the fostering oversight organization determines that a sexually intact animal may be placed in a foster care home with another sexually intact animal of the opposite sex of the same species because the fostered animal is too young to breed, then the fostering oversight organization shall monitor the physical development of the fostered animal to either remove the animal before it is capable of breeding or to neuter or spay the fostered animal.

**67.12(12)** The fostering oversight organization shall retain a copy of all the following documents for a period of 24 months and shall make such documents available for inspection by the department during regular business hours:

*a.* Applications to operate a foster care home, including any written approvals, conditional approvals, or denials.

*b.* Inspections or other reports relating to the operation of a foster care home.

c. Any written complaints or notes written by staff of the fostering oversight organization relating to an oral complaint against a foster care home.

d. Any documents relating to the investigation or other resolution of a complaint regarding a foster care home.

e. Any documents relating to the revocation or suspension of a foster care home's authorization.

**67.12(13)** The fostering oversight organization shall maintain detailed records as to which animals have been placed in a foster care home, when each animal was placed in a foster care home, and the ultimate disposition of each animal.

**67.12(14)** All adoptions and euthanasias of animals placed in a foster care home shall be the responsibility of the fostering oversight organization and shall not be performed by the foster care home, unless an emergency euthanasia must be performed by a licensed veterinarian to prevent the needless suffering of the animal.

**67.12(15)** All deaths, injuries, or emergency euthanasias occurring within a foster care home shall be reported to the fostering oversight organization within 24 hours of the event.

**67.12(16)** It is the primary responsibility of the fostering oversight organization to provide for oversight and regulation of its foster care homes; however, the department may choose to inspect a foster care home if the department determines that it would be in the best interests of the animals being maintained in the foster care home to conduct the inspection or if the department deems an inspection is desirable to determine whether a fostering oversight organization is properly fulfilling its role of screening and oversight of foster care homes. If the department determines that either serious or chronic problems exist in a foster care home, the department may order the fostering oversight organization to suspend or rescind the authorization of the foster care home. The fostering oversight organization shall immediately obtain physical examinations of all animals previously placed in the foster care home.

**67.12(17)** If the department determines that a fostering oversight organization is not providing adequate screening or oversight of its foster care homes, then the department may suspend or rescind the fostering oversight organization's authorization to use foster care homes.

**67.12(18)** If the department suspends or revokes the license of an animal shelter or pound and that animal shelter or pound is also a fostering oversight organization, then the authorization of the animal shelter or pound to operate as a fostering oversight organization shall immediately cease, and the authorization of the foster care homes operating under that fostering oversight organization shall also immediately cease.

This rule is intended to implement Iowa Code chapter 162.

**21—67.13(162) Greyhound breeder or farm fee.** A person who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall pay a fee of \$40 for the issuance or renewal of a state license.

This rule is intended to implement 2010 Iowa Acts, House File 2280, section 5.  
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## UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]  
under the “umbrella” of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

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UTILITIES AND  
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CHAPTER 15  
COGENERATION AND SMALL POWER PRODUCTION

[Ch 15 renumbered as Ch 7,10/20/75]

[Prior to 10/8/86, Commerce Commission[250]]

**199—15.1(476) Definitions.** Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601, et seq., shall have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

“*AEP facility*” means any of the following: (1) an electric production facility which derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning; (2) a hydroelectric facility at a dam; (3) land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility; or (4) transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

“*Alternate energy purchase (AEP) program*” means a utility program that allows customers to contribute voluntarily to the development of alternate energy in Iowa.

“*Avoided costs*” means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

“*Backup power*” means electric energy or capacity supplied by an electric utility to qualifying facilities and AEP facilities to replace energy ordinarily generated by a facility’s own generation equipment during an unscheduled outage of the facility.

“*Board*” means the Iowa utilities board.

“*Interconnection costs*” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with qualifying facilities and AEP facilities, to the extent the costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

“*Interruptible power*” means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

“*Maintenance power*” means electric energy or capacity supplied by an electric utility during scheduled outages of qualifying facilities and AEP facilities.

“*Purchase*” means the purchase of electric energy or capacity or both from qualifying facilities and AEP facilities by an electric utility.

“*Qualifying facility*” means a cogeneration facility or a small power production facility which is a qualifying facility under 18 CFR Part 292, Subpart B.

“*Rate*” means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

“*Sale*” means the sale of electric energy or capacity or both by an electric utility to qualifying facilities and AEP facilities.

“*Supplementary power*” means electric energy or capacity supplied by an electric utility, regularly used by qualifying facilities and AEP facilities in addition to that which the facility generates itself.

“*System emergency*” means a condition on a utility’s system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

**199—15.2(476) Scope.****15.2(1) Applicability.**

a. Subrule 15.2(2) and rule 199—15.10(476) of this chapter apply to all electric utilities, all qualifying facilities, and all AEP facilities.

b. Rule 199—15.3(476) of this chapter applies to electric utilities which are subject to rate regulation by the board.

c. Rules 199—15.4(476) and 199—15.5(476) of this chapter apply to qualifying facilities and electric utilities which are subject to rate regulation by the board.

d. Rules 199—15.6(476) to 199—15.9(476) of this chapter apply to all qualifying facilities and AEP facilities, and electric utilities which are subject to rate regulation by the board.

e. Rule 199—15.11(476) of this chapter lists additional requirements that apply to AEP facilities, and electric utilities which are subject to rate regulation by the board, pursuant to Iowa Code sections 476.41 to 476.45.

**15.2(2) Negotiated rates or terms.** These rules do not:

a. Limit the authority of any electric utility, any qualifying facility, or any AEP facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by these rules; or

b. Affect the validity of any contract entered into between an electric utility and a qualifying facility or AEP facility for any purchase.

**199—15.3(476) Information to board.** In addition to the information required to be supplied to the board under 18 CFR 292.302, all rate-regulated electric utilities shall supply to the board copies of contracts executed for the purchase or sale, for resale, of energy or capacity. If the purchases or sales are made other than pursuant to the terms of a written contract, then information as to the relevant prices and conditions shall be supplied to the board. All information required to be supplied under this rule shall be filed with the board by May 1 and November 1 of each year for all transactions occurring since the last filing was made.

**199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities.** For purposes of this rule, “electric utility” means a rate-regulated electric utility.

**15.4(1) Obligation to purchase from qualifying facilities.** Each electric utility shall purchase, in accordance with these rules, any energy and capacity which is made available from a qualifying facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.4(4).

**15.4(2) Obligation to sell to qualifying facilities.** Each electric utility shall sell to any qualifying facility, in accordance with these rules and the other requirements of law, any energy and capacity requested by the qualifying facility.

**15.4(3) Obligation to interconnect.** Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with rule 199—15.8(476). However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

**15.4(4) Transmission to other electric utilities.** If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

**15.4(5) *Parallel operation.*** Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

**199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities.** For purposes of this rule, “electric utility” or “utility” means a rate-regulated electric utility.

**15.5(1) *Rates for purchases.*** Rates for purchases shall:

*a.* Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

*b.* Not discriminate against qualifying cogeneration and small power production facilities. Nothing in these rules requires any electric utility to pay more than the avoided costs, as set forth in these rules, for purchases.

**15.5(2) *Relationship to avoided costs.*** For purposes of this subrule, “new capacity” means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies the requirements of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in rule 15.6(476); except that a rate for purchases other than from new capacity may be less than the avoided cost if the board determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to the requirements of this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

**15.5(3) *Standard rates for purchases.*** Each electric utility shall file and maintain with the board tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kilowatts or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility’s avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the board for an allowance of the capacity credit. The petition shall be handled by the board as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

The board may require utilities interconnected with qualifying facilities to provide metering and other equipment necessary for the collection test and monitoring of information concerning the time and conditions under which energy and capacity are available from the qualifying facility. The costs of such metering shall be treated by the utility in the same manner as any other research expenditure.

**15.5(4) *Other purchases.*** Rates for purchases from qualifying facilities with a design capacity of greater than 100 kilowatts shall be determined in contested case proceedings before the board, unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

**15.5(5) *Purchases “as available” or pursuant to a legally enforceable obligation.*** Each qualifying facility shall have the option either:

*a.* To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility’s avoided costs calculated at the time of delivery; or

b. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: The avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

**15.5(6) Factors affecting rates for purchases.** In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

a. The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.

b. The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.

c. The time of day or season during which capacity or energy is available, including:

(1) The ability of the utility to dispatch the qualifying facility;

(2) The expected or demonstrated reliability of the qualifying facility;

(3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

(4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation; and

(6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

**15.5(7) Periods during which purchases not required.** Any electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that any electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. Any electric utility which fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the board.

**199—15.6(476) Rates for sales to qualifying facilities and AEP facilities by rate-regulated utilities.** For purposes of this rule, "utility" means a rate-regulated electric utility. Rates for sales to qualifying facilities and AEP facilities shall be just, reasonable and in the public interest, and shall not discriminate against qualifying facilities and AEP facilities in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities and AEP facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of qualifying facilities and AEP facilities can be usefully coordinated with scheduled outages of the utility's facilities.

**199—15.7(476) Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities.** For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

**15.7(1)** Upon request of qualifying facilities and AEP facilities, each electric utility shall provide supplementary power, backup, maintenance power, and interruptible power. Rates for such service shall meet the requirements of subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

The board may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

- a. Impair the electric utility's ability to render adequate service to its customers, or
- b. Place an undue burden on the electric utility.

**15.7(2)** Reserved.

**199—15.8(476) Interconnection costs.** For purposes of this rule, "utility" means a rate-regulated electric utility.

**15.8(1)** Qualifying facilities and AEP facilities shall be obligated to pay interconnection costs, as described in 199—Chapter 45.

**15.8(2)** Reserved.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—15.9(476) System emergencies.** For purposes of this rule, "electric utility" means a rate-regulated electric utility. Qualifying facilities and AEP facilities shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

**15.9(1)** Provided by agreement between the qualifying facility or AEP facility and the electric utility;  
or

**15.9(2)** Ordered under Section 202(c) of the Federal Power Act. During any system emergency, an electric utility may immediately discontinue:

- a. Purchases from qualifying facilities and AEP facilities if purchases would contribute to the emergency; and
- b. Sales to qualifying facilities and AEP facilities, provided that the discontinuance is on a nondiscriminatory basis.

**199—15.10(476) Standards for interconnection, safety, and operating reliability.** For purposes of this rule, "electric utility" or "utility" means both rate-regulated and non-rate-regulated electric utilities.

**15.10(1) Acceptable standards.** The interconnection of qualifying facilities and AEP facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE Standard 1547-2003. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems.

b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

c. National Electrical Code, ANSI/NFPA 70-2008.

**15.10(2) Modifications required.** Rescinded IAB 7/23/03, effective 8/27/03.

**15.10(3) Interconnection facilities.**

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

b. The interconnection shall include overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

c. Facilities with a design capacity of 100 kilowatts or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

d. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

**15.10(4) Access.** If an isolation device is required by the utility, both the operator of the qualifying facility or AEP facility and the utility shall have access to the isolation device at all times. An interconnection customer may elect to provide the utility with access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the isolation device. The lockbox shall be in a location determined by the utility to be accessible by the utility. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to utility operating personnel for accessing the isolation device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

**15.10(5) Inspections.** The operator of the qualifying facility or AEP facility shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 15.10(3) for inspection and testing.

**15.10(6) Emergency disconnection.** In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the qualifying facility or AEP facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—15.11(476) Additional rate-regulated utility obligations regarding AEP facilities.** For purposes of this rule, “MW” means megawatt, “MWH” means megawatt-hour, and “utility” means a rate-regulated electric utility.

**15.11(1) Obligation to purchase from AEP facilities.** Each utility shall purchase, pursuant to contract, its share of at least 105 MW of AEP generating capacity and associated energy production. The utility's share of 105 MW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 FERC Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105 MW is determined to be as follows:

	Percentage Share of <u>Iowa Peak</u>	Utility Share of <u>105 MW</u>
Interstate Power and Light	47.43%	49.8 MW
MidAmerican Energy	52.57%	55.2 MW

A utility is not required to purchase from an AEP facility that is not owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following: (1) is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from AEP facilities; and (2) does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

**15.11(2) Purchases pursuant to a legally enforceable obligation.** Each AEP facility shall provide electricity on a best-efforts basis pursuant to a legally enforceable obligation for the delivery of electricity over a specified contract term.

**15.11(3) Annual reporting requirement.** Beginning April 1, 2004, each utility shall file an annual report listing nameplate MW capacity and associated monthly MWH purchased from AEP facilities, itemized by AEP facility.

**15.11(4) Tariff filings.** Rescinded IAB 6/16/10, effective 7/21/10.

**15.11(5) Net metering.** Each utility shall offer to operate in parallel through net metering (with a single meter monitoring only the net amount of electricity sold or purchased) with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the fixed or negotiated buy-back rate, and any electricity provided to the AEP facility by the utility is sold to the facility at the tariffed rate.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—15.12(476) Rates for purchases from qualifying alternate energy and small hydro facilities by rate-regulated electric utilities.** Rescinded IAB 7/23/03, effective 8/27/03.

**199—15.13(476) Rates for sales to qualifying alternate energy production and small hydro facilities by rate-regulated utilities.** Rescinded IAB 7/23/03, effective 8/27/03.

**199—15.14(476) Additional services to be provided to qualifying alternate energy production and small hydro facilities.** Rescinded IAB 7/23/03, effective 8/27/03.

**199—15.15(476) Interconnection costs.** Rescinded IAB 7/23/03, effective 8/27/03.

**199—15.16(476) System emergencies.** Rescinded IAB 7/23/03, effective 8/27/03.

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

**199—15.17(476) Alternate energy purchase programs.**

Any consumer-owned utility, including any electric cooperative corporation or association or any municipally owned electric utility, may apply to the board for a waiver under this rule.

This rule shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers.

**15.17(1) Obligation to offer programs.**

*a.* Beginning January 1, 2004, each electric utility, whether or not subject to rate regulation by the board, shall offer an alternate energy purchase program that allows customers to contribute voluntarily to the development of alternate energy in Iowa, and allows for the exceptions listed in paragraph 15.17(1)“c.”

*b.* Each electric utility subject to rate regulation by the board, except for utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall demonstrate on an annual basis that it produces or purchases sufficient energy from program AEP facilities located in Iowa to meet the needs of its Iowa program. These Iowa-based AEP facilities shall not include AEP facilities for which the utility has sought cost recovery under rule 199—20.9(476) prior to July 1, 2001.

*c.* The electric utility may partially or fully base its program on energy produced by AEP facilities located outside of Iowa under any of the following circumstances:

(1) The energy is purchased by the electric utility pursuant to a contract in effect prior to July 1, 2001, and continues until the expiration of the contract, including any options to renew that are exercised by the electric utility.

(2) The electric utility has a financial interest, as of July 1, 2001, in an AEP facility that is located outside of Iowa or in an entity that has a financial interest in an AEP facility located outside of Iowa; or

(3) The energy is purchased by an electric utility that is not subject to rate regulation by the board, or which elects rate regulation pursuant to Iowa Code section 476.1A, and that is required to purchase all of its electric power requirements from one or more suppliers that are physically located outside of Iowa.

**15.17(2) Customer notification.**

*a.* Each electric utility shall notify eligible customer classes of its alternate energy purchase program and proposed program modifications at least 60 days prior to implementation of the program or program modification. The notification shall include, as applicable:

- (1) A description of the availability and purpose of the program or program modification, clarifying that customer contributions will not involve the direct sale of alternate energy to individual customers;
- (2) The effective date of the program or program modification;
- (3) Customer classes eligible for participation;
- (4) Forms and levels of customer contribution available to program participants;
- (5) A utility telephone number for answering customers' questions about the program; and
- (6) Customer instructions that explain how to participate in the program.

*b.* In addition to the notification requirements under paragraph 15.17(2) "a," each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall:

- (1) Include fuel report information described under subrule 15.17(5); and
- (2) Submit the proposed notification to the board for approval at least 30 days prior to the proposed date of issuance of the notification.

**15.17(3) Program plan filing requirements for rate-regulated utilities.** On or before October 1, 2003, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a plan for the utility's alternate energy purchase program. Initial program plans and any subsequent modifications will be subject to board approval. Modification filings need only include information about elements of the program that are being modified. The initial program plan filing shall include:

- a.* The program tariff;
- b.* The program effective date;
- c.* A sample of the customer notification, including a description of the method of distribution;
- d.* Customer classes eligible for participation and the schedule for extending participation to all customer classes;
- e.* Identification of each AEP facility used for the program, including:
  - (1) Fuel type;
  - (2) Nameplate capacity;
  - (3) Estimated annual kWh output;
  - (4) Estimated in-service date;
  - (5) Ownership, including any utility affiliation;
  - (6) A copy of any contract for utility purchases from the facility;
  - (7) A description of the method or procedure used to select the facility;
  - (8) Facility location; and
  - (9) If the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1) "c";
- f.* The forms and levels of customer contribution available to program participants, including, but not limited to:

- (1) kWh rate premiums applied to percentages of participant kWh usage, with an explanation of how the kWh rate premiums are derived; or
- (2) kWh rate premiums applied to fixed kWh blocks of participant usage, with an explanation of how the kWh rate premiums are derived; or
- (3) Fixed contributions, with an explanation of how the fixed amounts are derived;

g. The maximum allowable time lag between the beginning of customer contributions and the in-service date for identified AEP facilities, and the procedures for suspending customer contributions if the maximum time lag is exceeded;

h. The intended treatment of program participants under 199—20.9(476) energy automatic adjustment and AEP automatic adjustment clauses;

i. An accounting plan for identifying and tracking participant contributions and program costs, including:

(1) Identification of incremental program costs not otherwise recovered through the utility's rates, including but not limited to: program start-up and administration costs; program marketing costs; and program energy and capacity costs associated with identified AEP facilities;

(2) Methods for quantifying, assigning, and allocating costs of the program and for segregating those costs in the utility's accounts; and

j. Marketing and customer information plan, including schedules and copies of all marketing and information materials, as available.

**15.17(4) Annual reporting requirements for rate-regulated utilities.** On or before April 1, 2005, and annually thereafter, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a report of program activity for the previous calendar year. The annual report shall include:

a. Program information including:

(1) The number of program participants, by customer class;

(2) Participant contribution revenues, by customer class, by form and level of contribution, and associated participant kWh sales;

(3) Program electricity generated from each program AEP facility and the associated costs; and

(4) Other program costs, by cost type.

b. An annual reconciliation of participant contributions and program costs.

(1) Program costs are incremental costs associated with the utility's alternate energy purchase program not otherwise recovered through the utility's base tariff rates, and electricity costs dedicated to the program and separated from the utility's 199—20.9(476) energy or AEP automatic adjustment clauses.

(2) The excess of participant contributions over program costs is an annual program surplus, and the excess of program costs over participant contributions is an annual program deficit.

(3) Annual program surpluses and deficits are cumulative over successive years.

(4) A program deficit may be recovered through the utility's 199—20.9(476) AEP automatic adjustment clause.

(5) Any program surplus shall be used to offset prior years' program deficits previously recovered through the AEP automatic adjustment clause, and the offset amount shall be credited through the utility's AEP automatic adjustment clause.

c. Identification of any other AEP or renewable energy requirements being met with program AEP facilities and identification of any revenues derived from the separate sale of the renewable energy attributes of program AEP facilities.

d. Documentation that shows the energy produced by the utility's program AEP facilities in Iowa (whether contracted, leased, or owned), not including AEP facilities for which the utility has sought cost recovery under 199—20.9(476) prior to July 1, 2001, is sufficient to meet the requirement of the utility's Iowa alternate energy purchase program.

e. A description of program marketing and customer information activities, including schedules and copies of all marketing and information materials related to the program.

f. Program modifications and uses for any program surplus that are under consideration, including procurement or assignment of additional electricity from AEP facilities.

g. A copy of the utility's annual fuel report to customers under subrule 15.17(5).

**15.17(5) Annual fuel reporting requirements for rate-regulated utilities.**

a. Each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall annually report to all its Iowa customers its

percentage mix of fuel and energy inputs used to produce electricity. The report shall, to the extent practical, specify percentages of electricity produced by coal, nuclear energy, natural gas, oil, AEP electricity produced for the utility's alternate energy purchase program, non-program AEP electricity, and resources purchased from other companies. The percentages for AEP electricity shall further specify percentages of electricity produced by wind, solar, hydropower, biomass, and other technologies.

*b.* The report shall include an estimate of sulfur dioxide (SO<sub>2</sub>), nitrogen oxide (NO<sub>x</sub>), and carbon dioxide (CO<sub>2</sub>) emissions for each known fuel and energy input type. The emission estimate shall be expressed in pounds per 1000 kWh.

**15.17(6) *Tariff filing requirements for non-rate-regulated utilities.***

*a.* On or before January 1, 2004, each electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A shall file with the board a tariff for the utility's alternate energy purchase program. Initial tariff filings and any subsequent modifications shall be filed for informational purposes only. Tariff modification filings need only include information about elements of the program that are being modified. The initial tariff filings shall include, as applicable:

- (1) The program tariff;
- (2) The program effective date;
- (3) A sample of the customer notification, including a description of the method of distribution;
- (4) Customer classes eligible for participation;
- (5) Identification of any specific AEP facilities to be included in the program, including: fuel type; nameplate capacity; estimated annual kWh output; estimated in-service date; ownership, including any utility affiliation; location; and, if the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1) "c"; and

(6) Forms and levels of customer contribution available to program participants.

*b.* Joint filings. An electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A may file its tariff jointly with other non-rate-regulated utilities or through an agent. A joint tariff filing shall contain the information required by paragraph 15.17(6) "a," separately identified for each utility participating in the joint tariff. The information for each utility may be provided by reference to an attached document or to a section of the joint tariff filing. A joint tariff filing filed by an agent shall state the agent's relationship to each utility and include a document from each utility authorizing the agent to act on the utility's behalf.

**199—15.18(476B) Certification of eligibility for wind energy tax credits under Iowa Code chapter 476B.** Any person applying for certification of eligibility for state tax credits for wind energy pursuant to Iowa Code section 476B.5 as amended by 2005 Iowa Acts, chapter 179, section 166, is subject to this rule.

**15.18(1) *Filing requirements.*** Any person applying for certification of eligibility for wind energy tax credits must file with the board an application that contains substantially all of the following information:

*a.* Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

*b.* Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner, and a statement attesting that owners meeting the eligibility requirements of Iowa Code Supplement section 476B.5 are not owners of more than two eligible renewable energy facilities. In determining whether the two-facility limit is exceeded, the Board will consider not only the legal entity that owns the utility, if other than a natural person, but the equity owners of the legal entity. If the owner of the facility is other than a natural person, information regarding the equity owners must be provided.

*c.* A description of the facility, including at a minimum the following information:

- (1) Type of facility (that is, a qualified facility as defined in Iowa Code Supplement section 476B.1);
- (2) Total nameplate generating capacity rating. For applications filed on or after March 1, 2008, the facility must have a combined nameplate capacity of no less than 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community

college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate capacity of no less than  $\frac{3}{4}$  of a megawatt;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service (that is, placed in service on or after July 1, 2005, but before July 1, 2012, for eligibility under Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179).

*d.* A signed statement from the owner attesting that the owner intends to either sell all the electricity generated by the facility, consume all the electricity on site, or a combination of both. For purposes of this rule, electricity consumed on site means any electricity produced by the facility and not sold.

*e.* If the owner intends to sell electricity generated by the facility, a copy of the executed power purchase agreement or other agreement to purchase electricity. If the power purchase agreement has not yet been finalized and executed, the board will accept as an other agreement an executed agreement signed by at least two parties that includes both a commitment to purchase electricity from the facility upon completion of the project and most of the essential elements of a contract.

The board will also accept a copy of an executed interconnection agreement service agreement, in lieu of a power purchase agreement, if the facility owner has instead agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

*f.* A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179 (1 cent per kWh, wind energy only tax credits).

**15.18(2) *Review and notification.*** Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code Supplement section 476B.5. In the absence of a timely appeal, the preliminary determination shall be final.

**15.18(3) *Incomplete application and additional information.*** If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

**15.18(4) *Loss of eligibility status.*** Within 18 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 18 months of board approval, the facility will lose eligibility status.

However, if the facility is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the filing requirement, attesting to the unavailability of necessary equipment. After granting a 12-month extension, if the board determines that the facility was not operational within 30 months of board approval, the facility will lose eligibility status. Otherwise, the facility may reapply to the board for new eligibility.

**15.18(5) *Allocation of capacity among eligible applicants.*** Iowa Code Supplement section 476B.5 establishes the maximum amount of nameplate generating capacity of facilities eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board

may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with 199 IAC 15.18(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

**15.18(6) *Waiting list for excess applications.*** The board will maintain a waiting list of excess eligibility applications for facilities that might have received preliminary eligibility under 199 IAC 15.18(2), but for the maximum capacity and capability restrictions under 199 IAC 15.18(5). The priorities of the waiting list will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under 199 IAC 15.18(5), the board will review the applications on the waiting list based on their priorities, before reviewing new applications. Applications will be removed from the waiting list after they are either approved or denied. Beginning August 31, 2007, each applicant on the waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code Supplement chapter 476B.  
[ARC 8060B, IAB 8/26/09, effective 9/30/09]

**199—15.19(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C.** Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code Supplement section 476C.3 is subject to this rule.

**15.19(1) *Filing requirements.*** Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the board an application that contains substantially all of the following information:

*a.* Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

*b.* Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The "legal status of each owner" refers to the ownership requirements of Iowa Code Supplement section 476C.1(6) "b," which provides that an eligible renewable energy facility must be at least 51 percent owned by one or more or any combination of the following:

- (1) A resident of Iowa;
- (2) An authorized farm corporation, authorized limited liability company, or authorized trust, as defined in Iowa Code section 9H.1;
- (3) A family farm corporation, family farm limited liability company, or family farm trust, as defined in Iowa Code section 9H.1;
- (4) A revocable trust as defined in Iowa Code section 9H.1;
- (5) A testamentary trust as defined in Iowa Code section 9H.1;
- (6) A small business as defined in Iowa Code section 15.102;
- (7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499;
- (8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or
- (9) A school district located in Iowa.

*c.* A statement attesting that each owner meeting the eligibility requirements of Iowa Code Supplement section 476C.1(6) "b" does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility, or refuse conversion facility, as defined in Iowa Code Supplement section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code Supplement section 476C.1;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2012, for eligibility under Iowa Code Supplement chapter 476C; and

(5) For eligibility under Iowa Code Supplement chapter 476C, demonstration that the facility's combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent (as defined in Iowa Code Supplement section 476C.1(7)), divided by the number of separate owners meeting the requirements of Iowa Code Supplement chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

h. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code Supplement chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

**15.19(2) Review and notification.** Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code Supplement section 476C.3(2). In the absence of a timely appeal, the preliminary determination shall be final.

**15.19(3) Incomplete application and additional information.** If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

**15.19(4) Loss of eligibility status.** Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status.

However, if the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the board determines that the facility was not operational within 42 months of board approval, the facility will lose eligibility status.

If the facility loses eligibility status, the facility may reapply to the board for new eligibility.

**15.19(5) Allocation of capacity among eligible applicants.** Iowa Code Supplement section 476C.3(4) establishes the maximum amounts of nameplate generating capacities and energy production capacity equivalents eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with 199 IAC 15.19(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

**15.19(6) Waiting lists for excess applications.** The board will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under 199 IAC 15.19(2), but for the maximum capacity and capability restrictions under 199 IAC 15.19(5). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under 199 IAC 15.19(5), the board will review the applications on the waiting lists based on their priorities, before reviewing new applications. Applications will be removed from the waiting lists after they are either approved or denied. Beginning August 31, 2007, each applicant on a waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code Supplement chapter 476C.  
[ARC 8060B, IAB 8/26/09, effective 9/30/09]

**199—15.20(476B) Applications for wind energy tax credits under Iowa Code chapter 476B.** The wind energy tax credits equal one cent per kilowatt-hour of electricity generated by eligible wind energy facilities under 199 IAC 15.18(476B), which is sold or used for on-site consumption by the owner, for tax years beginning on or after July 1, 2006. The owners of an eligible facility may apply for wind energy tax credits for up to ten tax years following the date the facility is placed in service. Wind energy tax credits will not be issued for wind energy sold or used for on-site consumption after June 30, 2022. For purposes of this rule, wind energy used for on-site consumption means any electricity produced by an eligible facility and not sold.

For the first tax year for which tax credits can be claimed, the kilowatt-hours generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credits for the 2007 tax year can include energy produced and purchased between April 1, 2006, and December 31, 2007.

**15.20(1) Application process for wind energy tax credits.** A wind energy facility must be approved as eligible by the board under 199 IAC 15.18(476B) in order to qualify for wind energy tax credits.

If the facility is located in a city or county neither of which has enacted an ordinance under Iowa Code section 427B.26, or if the facility is not eligible for special valuation pursuant to an ordinance adopted by the city or county under Iowa Code section 427B.26, the wind energy facility must also be approved by the city council or county board of supervisors of the city or county in which the facility is located, in accordance with Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4. Once the owners receive approval from their city council or county board of supervisors, additional approval from the city council or county board of supervisors is not required for subsequent tax years.

Tax credit applications for eligible facilities must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications must be filed in paper format and are not subject to the electronic filing requirements of 199 IAC 14.2(17A,476). The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199 IAC 1.9(5)“c”) and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199 IAC 1.9(8)“b”(3). Accordingly, the applicant should mark each of the pages of the tax credit application “CONFIDENTIAL” in bold or large letters.

*a.* If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199 IAC 15.20(476B)), and the following 13 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199 IAC 15.18(476B), plus any subsequent amendments to the application.

(2) A copy of the board’s determination approving the facility as eligible for tax credits under 199 IAC 15.18(476B).

(3) Either a copy of the city council’s or county board of supervisors’ approval, from the city or county in which the facility is located, issued pursuant to Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4; or a statement explaining why such approval is not required under Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4.

(4) A statement attesting that neither the owners nor the purchaser have received renewable energy tax credits for the facility under 199 IAC 15.21(476C).

(5) For any electricity sold, a copy of the executed power purchase agreement or other agreement to purchase electricity. Alternatively, a copy of an executed interconnection agreement or transmission service agreement is acceptable if the owners have elected to sell electricity from the facility directly or indirectly to a wholesale power pool market.

(6) For any electricity sold, the owner must provide a statement attesting that the electricity for which tax credits are sought has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the wind energy tax credits, the definition of “related person” is the same as specified in department of revenue subrules 701 IAC 42.25(2) and 52.26(2). That is, the definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

For any electricity used for on-site consumption, the owner must provide a signed statement attesting under penalty of perjury that the electricity for which tax credits are sought was generated by the eligible facility and not sold.

(7) The date that the eligible facility was placed in service (that is, between July 1, 2005, and July 1, 2012).

(8) The total number of kilowatt-hours of electricity generated by the facility during the tax year.

(9) For any electricity sold, invoices or other information that documents the number of kilowatt-hours of electricity generated by the eligible facility and sold to an unrelated purchaser during the tax year.

For any electricity used for on-site consumption, the number of kilowatt-hours of electricity generated by the eligible facility during the tax year and not sold.

(10) Information regarding the facility owners, including the name, address, and tax identification number of each owner, and the percentage of equity interest held by each owner during the period for which wind energy tax credits will be sought under Iowa Code chapter 476B as amended by 2009 Iowa Acts, Senate File 456. If an owner is other than a natural person, information regarding the equity owners

must also be provided. This information shall be consistent with information provided in the original application for facility eligibility, as amended, under 199 IAC 15.18(476B).

(11) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(12) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(13) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity, for each of the partners, members, shareholders, or beneficiaries of the entity. The wind energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company, to receive the wind energy tax credits issued under Iowa Code chapter 476B as amended by 2009 Iowa Acts, Senate File 456, and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof, of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the wind energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

*b.* The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

- (1) The completeness of the application.
- (2) The facility's eligibility status under 199 IAC 15.18(476B).
- (3) Whether the reported kilowatt-hours of electricity generated by the facility and sold or used by the owner for on-site consumption during the tax year seem accurate and eligible for wind energy tax credits.

**15.20(2)** *Review process and computation of wind energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue wind energy tax credit certificates to the facility owners, in accordance with department of revenue requirements and procedures under rules 701 IAC 42.25(422,476B), 52.26(422,476B), and 58.15(422,476B).

[ARC 8060B, IAB 8/26/09, effective 9/30/09]

**199—15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C.** The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose, generated by and purchased from eligible renewable energy facilities under 199 IAC 15.19(476C), for tax years beginning on or after July 1, 2006. Either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy

tax credits, for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy purchased after December 31, 2021.

For the first tax year for which tax credits can be claimed, the kilowatt-hours, standard cubic feet, or British thermal units generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include renewable energy produced and purchased between April 1, 2006, and December 31, 2007.

**15.21(1)** *Application process for renewable energy tax credits.* A renewable energy facility must be approved as eligible by the board under 199 IAC 15.19(476C) in order to qualify for renewable energy tax credits. Tax credit applications must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications must be filed in paper format and are not subject to the electronic filing requirements of 199 IAC 14.2(17A,476). The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199 IAC 1.9(5) "c") and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199 IAC 1.9(8) "b"(3). Accordingly, the applicant should mark each of the pages of the tax credit application "CONFIDENTIAL" in bold or large letters.

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits, as designated under 199 IAC 15.19(1) "g." If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199 IAC 15.21(476C)), and the following 12 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199 IAC 15.19(476C), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under 199 IAC 15.19(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under 199 IAC 15.20(476B).

(4) A copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under 199 IAC 15.19(1) "g."

(5) A statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2012).

(7) The total number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) Invoices or other information that documents the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year.

(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information

shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under 199 IAC 15.19(476C).

(10) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(11) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(12) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity for each of the partners, members, shareholders, or beneficiaries of the entity. The renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company to receive the renewable energy tax credits issued under Iowa Code chapter 476C and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

*b.* The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

- (1) The completeness of the application.
- (2) The facility's eligibility status under 199 IAC 15.19(476C).
- (3) Whether the reported kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by and purchased from the facility during the tax year seem accurate and eligible for renewable energy tax credits.

**15.21(2) Review process and computation of renewable energy tax credits.** The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue renewable energy tax credit certificates to the facility owners or designated purchaser, in accordance with department of revenue requirements and procedures under 701 IAC 42.26(422,476C), 52.27(422,476C), and 58.16(422,476C).

[ARC 8060B, IAB 8/26/09, effective 9/30/09]

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

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CHAPTER 45  
ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

**199—45.1(476) Definitions.** Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601 et seq., shall have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

*“Adverse system impact”* means a negative effect that compromises the safety or reliability of the electric distribution system or materially affects the quality of electric service provided by the utility to other customers.

*“AEP facility”* means an AEP facility, as defined in 199—Chapter 15, used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. An AEP facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

*“Affected system”* means an electric system not owned or operated by the utility reviewing the interconnection request that could suffer an adverse system impact from the proposed interconnection.

*“Applicant”* means a person (or entity) who has submitted an interconnection request to interconnect a distributed generation facility to a utility’s electric distribution system.

*“Area network”* means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit, generally used in large, densely populated metropolitan areas.

*“Board”* means the Iowa utilities board.

*“Business day”* means Monday through Friday, excluding state and federal holidays.

*“Calendar day”* means any day, including Saturdays, Sundays, and state and federal holidays.

*“Certificate of completion”* means the Standard Certificate of Completion in Appendix B (199—45.15(476)) that contains information about the interconnection equipment to be used, its installation, and local inspections.

*“Commissioning test”* means a test applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts and performs to the submitted specifications. At a minimum, the scope of the commissioning tests performed shall include the commissioning test specified in Institute of Electrical and Electronics Engineers, Inc. (IEEE), Standard 1547, Section 5.4 “Commissioning tests.”

*“Distributed generation facility”* means a qualifying facility or an AEP facility.

*“Distribution upgrade”* means a required addition or modification to the electric distribution system to accommodate the interconnection of the distributed generation facility. Distribution upgrades do not include interconnection facilities.

*“Draw-out type circuit breaker”* means a switching device capable of making, carrying and breaking currents under normal and abnormal circuit conditions such as those of a short circuit. A draw-out type circuit breaker can be physically removed from its enclosure creating a visible break in the circuit. The draw-out type circuit breaker shall be capable of being locked in the open, drawn-out position.

*“Electric distribution system”* means the facilities and equipment owned and operated by the utility and used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas but generally operate at less than 100 kilovolts of electricity. “Electric distribution system” has the same meaning as the term “Area EPS,” as defined in Section 3.1.6.1 of IEEE Standard 1547.

*“Fault current”* is the electrical current that flows through a circuit during an electrical fault condition. A fault condition occurs when one or more electrical conductors contact ground or each other. Types of faults include phase to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. Often, a fault current is several times larger in magnitude than the current that normally flows through a circuit.

“*IEEE Standard 1547*” is the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2003) “Standard for Interconnecting Distributed Resources with Electric Power Systems.”

“*IEEE Standard 1547.1*” is the IEEE Standard 1547.1 (2005) “Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems.”

“*Interconnection customer*” means a person or entity that interconnects a distributed generation facility to an electric distribution system.

“*Interconnection equipment*” means a group of components or an integrated system owned and operated by the interconnection customer that connects an electric generator with a local electric power system, as that term is defined in Section 3.1.6.2 of IEEE Standard 1547, or with the electric distribution system. Interconnection equipment is all interface equipment including switchgear, protective devices, inverters, or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

“*Interconnection facilities*” means facilities and equipment required by the utility to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility’s interconnection equipment and the point of interconnection, including any modifications, additions, or upgrades necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole-use facilities and do not include distribution upgrades.

“*Interconnection request*” means an applicant’s request, in a form approved by the board, for interconnection of a new distributed generation facility or to change the capacity or other operating characteristics of an existing distributed generation facility already interconnected with the electric distribution system.

“*Interconnection study*” is any study described in rule 199—45.11(476).

“*Lab-certified*” means a designation that the interconnection equipment meets the requirements set forth in rule 199—45.6(476).

“*Line section*” is that portion of an electric distribution system connected to an interconnection customer’s site, bounded by automatic sectionalizing devices or the end of the distribution line, or both.

“*Local electric power system*” means facilities that deliver electric power to a load that is contained entirely within a single premises or group of premises. “Local electric power system” has the same meaning as that term as defined in Section 3.1.6.2 of IEEE Standard 1547.

“*Nameplate capacity*” is the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA) regulations. See 29 CFR 1910.7 (July 31, 2000). NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

“*Parallel operation*” or “*parallel*” means a distributed generation facility that is connected electrically to the electric distribution system for longer than 100 milliseconds.

“*Point of interconnection*” has the same meaning as the term “point of common coupling” as defined in Section 3.1.13 of IEEE Standard 1547.

“*Primary line*” means an electric distribution system line operating at greater than 600 volts.

“*Qualifying facility*” means a cogeneration facility or a small power production facility that is a qualifying facility under 18 CFR Part 292, Subpart B, used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. A qualifying facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

“*Radial distribution circuit*” means a circuit configuration in which independent feeders branch out radially from a common source of supply.

“*Review order position*” means, for each distribution circuit or line section, the order of a completed interconnection request relative to all other pending completed interconnection requests on

that distribution circuit or line section. The review order position is established by the date that the utility receives the completed interconnection request.

“*Scoping meeting*” means a meeting between representatives of the applicant and utility conducted for the purpose of discussing interconnection issues and exchanging relevant information.

“*Secondary line*” means an electric distribution system line, or service line, operating at 600 volts or less.

“*Shared transformer*” means a transformer that supplies secondary voltage to more than one customer.

“*Spot network*” means a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit. A spot network is generally used to supply power to a single customer or a small group of customers. “Spot network” has the same meaning as the term “spot network” as defined in Section 4.1.4 of IEEE Standard 1547.

“*Standard distributed generation interconnection agreement*” means the Standard Distributed Generation Interconnection Agreements in Appendix A (199—45.14(476)) and Appendix D (199—45.17(476)) applicable to interconnection requests for distributed generation facilities.

“*UL Standard 1741*” means the standard titled “Inverters, Converters, and Controllers for Use in Independent Power Systems,” November 7, 2005, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

“*Utility*” means an electric utility that is subject to rate regulation by the Iowa utilities board.

“*Witness test*” for lab-certified equipment means a verification either by an on-site observation or review of documents that the interconnection installation evaluation required by IEEE Standard 1547, Section 5.3 and the commissioning test required by IEEE Standard 1547, Section 5.4 have been adequately performed. For interconnection equipment that has not been lab-certified, the witness test shall also include verification of the on-site design tests as required by IEEE Standard 1547, Section 5.1 and verification of production tests required by IEEE Standard 1547, Section 5.2. All verified tests are to be performed in accordance with the test procedures specified by IEEE Standard 1547.1.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

### **199—45.2(476) Scope.**

**45.2(1)** This chapter applies to utilities, and distributed generation facilities seeking to operate in parallel with utilities, provided the facilities are not subject to the interconnection requirements of the Federal Energy Regulatory Commission (FERC), the Midwest Independent Transmission System Operator, Inc. (MISO), or the Mid-Continent Area Power Pool (MAPP).

**45.2(2)** If the nameplate capacity of the facility is greater than 10 MVA, the interconnection customer and the utility shall start with the Level 4 review process and agreements under rules 199—45.11(476), 199—45.17(476), 199—45.18(476), 199—45.19(476), and 199—45.20(476), and modify the process and agreements as needed by mutual agreement. In addition, the interconnection customer and the utility shall start with the technical standards under rule 199—45.3(476) and modify the standards as needed by mutual agreement. If the interconnection customer and the utility cannot reach mutual agreement, the interconnection customer may seek resolution through the rule 199—45.12(476) dispute process.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.3(476) Technical standards.** The technical standard to be used in evaluating interconnection requests governed by this chapter is IEEE Standard 1547, unless otherwise noted.

**45.3(1) Acceptable standards.** The interconnection of distributed generation facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

*a.* Standard for Interconnecting Distributed Resources with Electric Power Systems, IEEE Standard 1547. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems.

- b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- c. National Electrical Code, ANSI/NFPA 70-2008.

**45.3(2) Interconnection facilities.**

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

b. The interconnection shall include overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

c. Distributed generation facilities with a design capacity of 100 kVA or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

d. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

**45.3(3) Access.** If an isolation device is required by the utility, both the operator of the distributed generation facility and the utility shall have access to the isolation device at all times. An interconnection customer may elect to provide the utility with access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the isolation device. The lockbox shall be in a location determined by the utility to be accessible by the utility. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to utility operating personnel for accessing the isolation device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

**45.3(4) Inspections.** The operator of the distributed generation facility shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 45.3(2) for inspection and testing.

**45.3(5) Emergency disconnection.** In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the distributed generation facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.4(476) Interconnection requests.**

**45.4(1)** Applicants seeking to interconnect a distributed generation facility shall submit an interconnection request to the utility that owns the electric distribution system to which interconnection is sought. Applicants shall use interconnection request forms approved by the board.

**45.4(2)** Utilities shall specify the fee by level that the applicant shall remit to process the interconnection request. The fee shall be specified in the interconnection request forms. Utilities may charge a fee by level that applicants must remit in order to process an interconnection request. The utilities shall not charge more than the fees specified in the Standard Application Forms in Appendix A (199—45.14(476)) and Appendix C (199—45.16(476)).

**45.4(3)** Interconnection requests may be submitted electronically, if agreed to by the parties.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.5(476) General requirements.**

**45.5(1)** When an interconnection request for a distributed generation facility includes multiple energy production devices at a site for which the applicant seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of the multiple devices.

**45.5(2)** When an interconnection request is for an increase in capacity for an existing distributed generation facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the distributed generation facility.

**45.5(3)** The utility shall designate a point of contact and provide contact information on the utility's Web site. The point of contact shall be able to direct applicant questions concerning interconnection request submissions and the interconnection request process to knowledgeable individuals within the utility.

**45.5(4)** The information that the utility makes available to potential applicants can include previously existing utility studies that help applicants understand whether it is feasible to interconnect a distributed generation facility at a particular point on the utility's electric distribution system. However, the utility can refuse to provide the information to the extent that providing it violates security requirements or confidentiality agreements, or is contrary to state or federal law. In appropriate circumstances, the utility may require a confidentiality agreement prior to release of this information.

**45.5(5)** When an interconnection request is deemed complete by the utility, any modification that is not agreed to by the utility requires submission of a new interconnection request.

**45.5(6)** When an applicant is not currently a customer of the utility at the proposed site, the applicant shall provide, upon utility request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract.

**45.5(7)** To minimize the cost to interconnect multiple distributed generation facilities, the utility or the applicant may propose a single point of interconnection for multiple distributed generation facilities located at an interconnection customer site that is on contiguous property. If the applicant rejects the utility's proposal for a single point of interconnection, the applicant shall pay any additional cost to provide a separate point of interconnection for each distributed generation facility. If the utility, without written technical explanation, rejects the customer's proposal for a single point of interconnection, the utility shall pay any additional cost to provide separate points of interconnection for each distributed generation facility.

**45.5(8)** Any metering required for a distributed generation interconnection shall be installed, operated, and maintained in accordance with the utility's metering rules filed with the board under 199—subrule 20.2(5), and inspection and testing practices adopted under rule 199—20.6(476). Any such metering requirements shall be identified in the Standard Distributed Generation Interconnection Agreement executed between the interconnection customer and the utility.

**45.5(9)** Utility requirements for monitoring and control of distributed generation facilities are permitted only when the nameplate capacity rating is greater than 1 MVA. Monitoring and control requirements shall be reasonable, consistent with the utility's published requirements, and shall be clearly identified in the interconnection agreement between the interconnection customer and the utility. Transfer trip shall not be considered utility monitoring and control when required and installed to protect the electric distribution system or an affected system against adverse system impacts.

**45.5(10)** The utility may require a witness test after the distributed generation facility is constructed. The applicant shall provide the utility with at least 15 business days' notice of the planned commissioning test for the distributed generation facility. The applicant and utility shall schedule the witness test at a mutually agreeable time. If the witness test results are not acceptable to the utility, the applicant shall be granted 30 business days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the utility and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the utility; subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the utility's satisfaction, the interconnection request shall be deemed withdrawn. Even if the utility or an entity approved by the utility does not witness a commissioning test, the applicant remains obligated to

satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547, Section 5. The applicant shall, if requested by the utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.6(476) Lab-certified equipment.** An interconnection request may be eligible for expedited interconnection review under rule 199—45.8(476), 199—45.9(476), or 199—45.10(476) (as described in rule 199—45.7(476)) if the distributed generation facility uses interconnection equipment that is lab-certified.

**45.6(1)** Interconnection equipment shall be deemed to be lab-certified if:

a. The interconnection equipment has been successfully tested in accordance with IEEE Standard 1547.1 (as appropriate for lab testing) or complies with UL Standard 1741, as demonstrated by any NRTL recognized by OSHA to test and certify interconnection equipment; and

b. The interconnection equipment has been labeled and is publicly listed by the NRTL at the time of the interconnection application; and

c. The applicant's proposed use of the interconnection equipment falls within the use or uses for which the interconnection equipment was labeled and listed by the NRTL; and

d. The generator, other electric sources, and interface components being utilized are compatible with the interconnection equipment and are consistent with the testing and listing specified by the NRTL for this type of interconnection equipment.

**45.6(2)** Lab-certified interconnection equipment shall not require further design testing or production testing, as specified by IEEE Standard 1547, Sections 5.1 and 5.2, or additional interconnection equipment modification to meet the requirements for expedited review; however, nothing in this subrule shall preclude the need for an interconnection installation evaluation, commissioning tests, or periodic testing as specified by IEEE Standard 1547, Sections 5.3, 5.4, and 5.5, or for a witness test conducted by a utility.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.7(476) Determining the review level.** A utility shall determine whether an interconnection request should be processed under the Level 1, 2, 3, or 4 procedures by using the following screens.

**45.7(1)** A utility shall use Level 1 procedures to evaluate all interconnection requests to connect a distributed generation facility when:

a. The applicant has filed a Level 1 application; and

b. The distributed generation facility has a nameplate capacity rating of 10 kVA or less; and

c. The distributed generation facility is inverter-based; and

d. The customer interconnection equipment proposed for the distributed generation facility is lab-certified; and

e. No construction of facilities by the utility shall be required to accommodate the distributed generation facility.

**45.7(2)** A utility shall use Level 2 procedures for evaluating interconnection requests when:

a. The applicant has filed a Level 2 application; and

b. The nameplate capacity rating is 2 MVA or less; and

c. The interconnection equipment proposed for the distributed generation facility is lab-certified; and

d. The proposed interconnection is to a radial distribution circuit or a spot network limited to serving one customer; and

e. No construction of facilities by the utility shall be required to accommodate the distributed generation facility, other than minor modifications provided for in subrule 45.9(6).

**45.7(3)** A utility shall use Level 3 review procedures for evaluating interconnection requests to area networks and radial distribution circuits where power will not be exported based on the following criteria.

a. For interconnection requests to the load side of an area network, the following criteria shall be satisfied to qualify for a Level 3 expedited review:

(1) The applicant has filed a Level 3 application; and

- (2) The nameplate capacity rating of the distributed generation facility is 50 kVA or less; and
- (3) The proposed distributed generation facility uses a lab-certified inverter-based equipment package; and
- (4) The distributed generation facility will use reverse power relays or other protection functions that prevent the export of power into the area network; and
- (5) The aggregate of all generation on the area network does not exceed the lower of 5 percent of an area network's maximum load or 50 kVA; and
- (6) No construction of facilities by the utility shall be required to accommodate the distributed generation facility.

*b.* For interconnection requests to a radial distribution circuit, the following criteria shall be satisfied to qualify for a Level 3 expedited review:

- (1) The applicant has filed a Level 3 application; and
- (2) The aggregated total of the nameplate capacity ratings of all of the generators on the circuit, including the proposed distributed generation facility, is 10 MVA or less; and
- (3) The distributed generation facility will use reverse power relays or other protection functions that prevent power flow onto the electric distribution system; and
- (4) The distributed generation facility is not served by a shared transformer; and
- (5) No construction of facilities by the utility on its own system shall be required to accommodate the distributed generation facility.

**45.7(4)** A utility shall use the Level 4 study review procedures for evaluating interconnection requests when:

- a.* The applicant has filed a Level 4 application; and
- b.* The nameplate capacity rating of the small generation facility is 10 MVA or less; and
- c.* Not all of the interconnection equipment or distributed generation facilities being used for the application are lab-certified.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.8(476) Level 1 expedited review.** A utility shall use the Level 1 interconnection review procedures for an interconnection request that meet the requirements specified in subrule 45.7(1). A utility may not impose additional requirements on Level 1 reviews that are not specifically authorized under this rule or rule 199—45.3(476) unless the applicant agrees.

**45.8(1)** The utility shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:

*a.* For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, may not exceed 15 percent of the maximum load normally supplied by the distribution circuit.

*b.* For interconnection within a spot network, the distributed generation facility must use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal utility operations, remain above 1 percent of the network's maximum load over the past year, or will remain above a point reasonably set by the utility in good faith. At the utility's discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

*c.* When a proposed distributed generation facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, shall not exceed 20 kVA.

*d.* When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240-volt service, its addition may not create an imbalance between the two sides of the 240-volt service of more than 20 percent of the nameplate rating of the service transformer.

*e.* The utility shall not be required to construct any facilities on its own system to accommodate the distributed generation facility's interconnection.

**45.8(2)** The Level 1 interconnection shall use the following procedures:

*a.* The applicant shall submit an interconnection request using the appropriate Standard Application Form in Appendix A (199—45.14(476)) along with the Level 1 application fee.

*b.* Within seven business days after receipt of the interconnection request, the utility shall inform the applicant whether the interconnection request is complete. If the request is incomplete, the utility shall specify what information is missing and the applicant has ten business days after receiving notice from the utility to provide the missing information or the interconnection request shall be deemed withdrawn.

*c.* Within 15 business days after the utility notifies the applicant that its interconnection request is complete, the utility shall verify whether the distributed generation facility passes all the relevant Level 1 screens.

*d.* If the utility determines and demonstrates that a distributed generation facility does not pass all relevant Level 1 screens, the utility shall provide a letter to the applicant explaining the reasons that the facility did not pass the screens.

*e.* Otherwise, the utility shall approve the interconnection request and provide to the applicant a signed version of the standard “Conditional Agreement to Interconnect Distributed Generation Facility” in Appendix A (199—45.14(476)) subject to the following conditions:

(1) The distributed generation facility has been approved by local or municipal electric code officials with jurisdiction over the interconnection;

(2) The Standard Certificate of Completion in Appendix B (199—45.15(476)) has been returned to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities;

(3) The witness test has either been successfully completed or waived by the utility in accordance with Section (2)(c)(ii) of the Terms and Conditions for Interconnection in Appendix A (199—45.14(476)); and

(4) The applicant has signed the standard “Conditional Agreement to Interconnect Distributed Generation Facility” in Appendix A (199—45.14(476)). When an applicant does not sign the agreement within 30 business days after receipt of the agreement from the utility, the interconnection request is deemed withdrawn unless the applicant requests to have the deadline extended for no more than 15 business days. An initial request for extension shall not be denied by the utility, but subsequent requests may be denied.

*f.* If a distributed generation facility is not approved under a Level 1 review, and the utility’s reasons for denying Level 1 status are not subject to dispute, the applicant may submit a new interconnection request for consideration under Level 2, Level 3, or Level 4 procedures.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.9(476) Level 2 expedited review.** A utility shall use the Level 2 review procedure for interconnection requests that meet the Level 2 criteria in subrule 45.7(2). A utility may not impose additional requirements for Level 2 reviews that are not specifically authorized under this rule or rule 199—45.3(476) or subrule 45.5(9) unless the applicant agrees.

**45.9(1)** The utility shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:

*a.* For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, may not exceed 15 percent of the maximum normal load normally supplied by the distribution circuit.

*b.* For interconnection of a proposed distributed generation facility within a spot network, the proposed distributed generation facility must be inverter-based and use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal utility operations, remain above 1 percent of the network’s maximum load over the past year, or will remain above a point reasonably set by the utility in good faith. At the utility’s discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

*c.* The proposed distributed generation facility, in aggregation with other generation on the distribution circuit, may not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the primary line nearest the point of interconnection.

*d.* Any proposed distributed generation facility, in aggregate with other generation on the distribution circuit, shall not cause any electric utility distribution devices to be exposed to fault currents exceeding 90 percent of their short-circuit interrupting capability. Interconnection of a non-inverter-based distributed generation facility may not occur under Level 2 if equipment on the utility's distribution circuit is already exposed to fault currents of between 90 and 100 percent of the utility's equipment short-circuit interrupting capability. However, if fault currents exceed 100 percent of the utility's equipment short-circuit interrupting capability even without the distributed generation being interconnected, the utility shall replace the equipment at its own expense, and interconnection may proceed under Level 2.

*e.* When a customer-generator facility is to be connected to 3-phase, 3-wire primary utility distribution lines, a 3-phase or single-phase generator shall be connected phase-to-phase.

*f.* When a customer-generator facility is to be connected to 3-phase, 4-wire primary utility distribution lines, a 3-phase or single-phase generator shall be connected line-to-neutral and shall be grounded.

*g.* When the proposed distributed generation facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, may not exceed 20 kVA.

*h.* When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240-volt service, its addition may not create an imbalance between the two sides of the 240-volt service of more than 20 percent of the nameplate rating of the service transformer.

*i.* A distributed generation facility, in aggregate with other generation interconnected to the distribution side of a substation transformer feeding the circuit where the distributed generation facility proposes to interconnect, may not exceed 10 MVA in an area where there are transient stability limitations to generating units located in the general electrical vicinity, as publicly posted by the Mid-Continent Area Power Pool (MAPP), the Midwest Independent Transmission System Operator, Inc. (MISO), or the Midwest Reliability Organization (MRO).

*j.* Except as permitted by additional review in subrule 45.9(6), the utility shall not be required to construct any facilities on its own system to accommodate the distributed generation facility's interconnection.

**45.9(2)** The Level 2 interconnection shall use the following procedures:

*a.* The applicant submits an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 2 application fee.

*b.* Within ten business days after receiving the interconnection request, the utility shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the utility shall specify what materials are missing and the applicant has ten business days to provide the missing information or the interconnection request shall be deemed withdrawn.

*c.* After an interconnection request is deemed complete, the utility shall assign a review order position based upon the date that the interconnection request is determined to be complete. The utility shall then inform the applicant of its review order position.

*d.* If, after determining that the interconnection request is complete, the utility determines that it needs additional information to evaluate the distributed generation facility's adverse system impact, it shall request this information. The utility may not restart the review process or alter the applicant's review order position because it requires the additional information. The utility can extend the time to finish its evaluation only to the extent of the delay required for receipt of the additional information. If the additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.

*e.* Within 20 business days after the utility notifies the applicant it has received a completed interconnection request, the utility shall:

(1) Evaluate the interconnection request using the Level 2 screening criteria; and

(2) Provide the applicant with the utility's evaluation, including a written technical explanation. If a utility does not have a record of receipt of the interconnection request and the applicant can demonstrate that the original interconnection request was delivered, the utility shall complete the evaluation of the interconnection request within 20 business days after applicant's demonstration.

**45.9(3)** When a utility determines that the interconnection request passes the Level 2 screening criteria, or the utility determines that the distributed generation facility can be interconnected safely and will not cause adverse system impacts, even if it fails one or more of the Level 2 screening criteria, it shall provide the applicant with the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) within three business days of the date the utility makes its determination.

**45.9(4)** Within 35 business days after issuance by the utility of the Standard Distributed Generation Interconnection Agreement, the applicant shall sign and return the agreement to the utility. If the applicant does not sign and return the agreement within 35 business days, the interconnection request shall be deemed withdrawn unless the applicant requests a 15-business-day extension in writing before the end of the 35-day period. The initial request for extension may not be denied by the utility. When the utility conducts an additional review under the provisions of subrule 45.9(6), the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the Standard Distributed Generation Interconnection Agreement.

**45.9(5)** The Standard Distributed Generation Interconnection Agreement is not final until:

- a. All requirements in the agreement are satisfied;
- b. The distributed generation facility is approved by the electric code officials with jurisdiction over the interconnection;
- c. The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement.

**45.9(6)** Additional review may be appropriate when a distributed generation facility fails to meet one or more of the Level 2 screens. The utility shall offer to perform additional review to determine whether there are minor modifications to the distributed generation facility or electric distribution system that would enable the interconnection to be made safely and so that it will not cause adverse system impacts. The utility shall provide the applicant with a nonbinding estimate for the costs of additional review and the costs of minor modifications to the electric distribution system. The utility shall undertake the additional review only after the applicant pays for the additional review. The utility shall undertake the modifications only after the applicant pays for the modifications.

**45.9(7)** If the distributed generation facility is not approved under a Level 2 review, the utility shall provide the applicant with written notification explaining its reasons for denying the interconnection request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The review order position assigned to the Level 2 interconnection request shall be retained, provided that the request is made by the applicant within 15 business days after notification that the current interconnection request is denied.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.10(476) Level 3 expedited review.** A utility shall use the Level 3 expedited review procedure for an interconnection request that meets the criteria in subrule 45.7(3) or 45.7(4). A utility may not impose additional requirements for Level 3 reviews not specifically authorized under this rule or rule 199—45.3(476) unless the applicant agrees.

**45.10(1)** A Level 3 interconnection shall use the following procedures:

- a. The applicant shall submit an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 3 application fee.
- b. Within ten business days after receiving the interconnection request, the utility shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the utility

shall specify what materials are missing and the applicant has ten business days to provide the missing information, or the interconnection request shall be deemed withdrawn.

*c.* After an interconnection request is deemed complete, the utility shall assign a review order position to it based upon the date the interconnection request is determined to be complete. The utility shall then inform the applicant of its review order position.

*d.* If, after determining that the interconnection request is complete, the utility determines that it needs additional information to evaluate the distributed generation facility's adverse system impact, the utility shall request this information. The utility may not restart the review process or alter the applicant's review order position because it requires the additional information. The utility can extend the time to finish its evaluation only to the extent the delay is required for receipt of the additional information. If this additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.

*e.* Interconnection requests meeting the requirements set forth in paragraph 45.7(3)"*a*" for nonexporting distributed generation facilities interconnecting to an area network shall be presumed to be appropriate for interconnection. The utility shall process the interconnection requests using the following procedures:

(1) The utility shall evaluate the interconnection request under Level 2 interconnection review procedures as set forth in subrule 45.9(1) except that the utility has 25 business days to evaluate the interconnection request against the screens to determine whether interconnecting the distributed generation facility to the utility's area network has any potential adverse system impacts.

(2) If the Level 2 screens for area networks identify potential adverse system impacts, the utility may determine at its sole discretion that it is inappropriate for the distributed generation facility to interconnect to the area network under Level 3 review, and the interconnection request is denied. The applicant may submit a new interconnection request for consideration under Level 4 procedures at the review order position assigned to the Level 3 interconnection request, if the request is made within 15 business days after notification that the current application is denied.

*f.* For interconnection requests that meet the requirements of paragraph 45.7(3)"*b*" for nonexporting distributed generation facilities interconnecting to a radial distribution circuit, the utility shall evaluate the interconnection request under the Level 2 expedited review in subrule 45.9(1), except for the screen in paragraph 45.9(1)"*a*."

**45.10(2)** For a distributed generation facility that satisfies the criteria in paragraph 45.10(1)"*e*" or 45.10(1)"*f*," the utility shall approve the interconnection request and provide the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) for the applicant to sign within three business days of the date the utility makes its determination.

**45.10(3)** Within 35 business days after issuance by the utility of the Standard Distributed Generation Interconnection Agreement, the applicant shall complete, sign, and return the agreement to the utility. If the applicant does not sign the agreement within 35 business days, the request shall be deemed withdrawn, unless the applicant requests a 15-business-day extension in writing before the end of the 35-day period. An initial request for extension may not be denied by the utility. After the agreement is signed by the parties, interconnection of the distributed generation facility shall proceed according to any milestones agreed to by the parties in the Standard Distributed Generation Interconnection Agreement.

**45.10(4)** The Standard Distributed Generation Interconnection Agreement shall not be final until:

- a.* All requirements in the agreement are satisfied; and
- b.* The distributed generation facility is approved by the electric code officials with jurisdiction over the distributed generation facility; and
- c.* The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility; and
- d.* The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement.

**45.10(5)** If the distributed generation facility is not approved under a Level 3 review, the utility shall provide the applicant with written notification explaining its reasons for denying the interconnection

request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The review order position assigned to the Level 3 interconnection request shall be retained, provided that the request is made within 15 business days after notification that the current interconnection request is denied.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.11(476) Level 4 review.** A utility shall use the following Level 4 study review procedures for an interconnection request that meets the criteria in subrule 45.7(4).

**45.11(1)** The applicant submits an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 4 application fee.

**45.11(2)** Within ten business days after receipt of an interconnection request, the utility shall notify the applicant whether the request is complete. When the interconnection request is not complete, the utility shall provide the applicant with a written list detailing the information required to complete the interconnection request. The applicant has ten business days to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.

**45.11(3)** After an interconnection request is deemed complete, the utility shall assign a review order position to it based upon the date the interconnection request is determined to be complete. When assigning a review order position, a utility may consider whether there are any other interconnection projects on the same distribution circuit. If there are other interconnection projects on the same distribution circuit, the utility may consider them together. If a utility assigns a review order position based on the existence of interconnection projects on the same distribution circuit, the utility shall notify the applicant of that fact when it assigns the review order position. The review order position of an interconnection request is used to determine the cost responsibility for the facilities necessary to accommodate the interconnection. The utility shall notify the applicant as to its position in the review order. If the interconnection request is subsequently amended, it shall receive a new review order position based on the date that it was amended.

**45.11(4)** Level 4 study review procedures. After the interconnection request has been assigned to the review order, a Level 4 study review shall be conducted:

*a.* Waiver or combination of standard Level 4 study review procedures. By mutual agreement of the parties in writing, the scoping meeting, feasibility study, system impact study, or facilities study in paragraph 45.11(4)“*b*” may be waived or combined with other studies. Otherwise, the standard Level 4 study review procedures in paragraph 45.11(4)“*b*” shall apply.

*b.* Standard Level 4 study review procedures.

(1) Scoping meeting. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“*a*,” a scoping meeting shall be held with the applicant on a mutually agreed-upon date and time, after the utility has notified the applicant that the Level 4 interconnection request is deemed complete, or after the applicant has requested that its interconnection request proceed under Level 4 review after failing the requirements of a Level 1, Level 2, or Level 3 review. The purpose of the meeting is to review the interconnection request, any existing studies relevant to the interconnection request, and the results of any Level 1, Level 2, or Level 3 screening criteria.

(2) Feasibility study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“*a*,” an interconnection feasibility study (subrule 45.11(5)) shall be performed.

1. The utility shall provide the applicant a copy of the Standard Interconnection Feasibility Study Agreement in Appendix E (199—45.18(476)) or a mutually agreed-upon alternative form, plus a description of the study and a nonbinding estimate of the cost to perform the study.

2. The utility shall provide the study agreement and information no later than 10 business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request; and
- The scoping meeting (if held).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

(3) System impact study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection system impact study (subrule 45.11(6)) shall be performed.

1. The utility shall provide the applicant a copy of the Standard Interconnection System Impact Study Agreement in Appendix F (199—45.19(476)) or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

2. The utility shall provide the study agreement and information no later than 10 business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request;
- The scoping meeting (if held); and
- Transmittal of the interconnection feasibility study (if performed).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

(4) Facilities study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection facilities study (subrule 45.11(7)) shall be performed.

1. The utility shall provide the applicant a copy of the Standard Interconnection Facilities Study Agreement in Appendix G (199—45.20(476)) or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

2. The utility shall provide the study agreement and information no later than 10 business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request;
- The scoping meeting (if held);
- Transmittal of the interconnection feasibility study (if performed); and
- Transmittal of the interconnection system impact study (if performed).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

**45.11(5) Interconnection feasibility study.**

a. Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4)“a,” the interconnection feasibility study shall include any necessary analyses for the purpose of identifying potential adverse system impacts to the utility’s electric system that would result from the interconnection from among the following:

(1) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

(2) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection; and

(3) Initial review of grounding requirements and system protection.

b. Before performing the study, the utility shall provide the applicant a description of the study and a nonbinding estimate of the cost to perform the study.

c. If an applicant requests that the interconnection feasibility study evaluate multiple potential points of interconnection, additional evaluations may be required. Additional evaluations shall be paid for by the applicant.

d. An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact but the utility is able to identify a remedy without the need for an interconnection system impact study.

e. Either party can require that the Standard Interconnection Feasibility Study Agreement in Appendix E (199—45.18(476)) be used. However, if both parties agree, an alternative form can be used.

**45.11(6) Interconnection system impact study.** An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the utility’s electric distribution system. The study identifies and details the system impacts that interconnecting the distributed generation facility to the utility’s electric system have if there are no system modifications.

It focuses on the potential or actual adverse system impacts identified in the interconnection feasibility study, including those that were identified in the scoping meeting. The study shall consider all other distributed generation facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the utility's system, have a pending higher review order position to interconnect to the electric distribution system, or have signed an interconnection agreement.

*a.* Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4) "a," an interconnection system impact study shall be performed when either a potential adverse system impact is identified in the interconnection feasibility study, or an interconnection feasibility study has not been performed. Before performing the study, the utility shall provide the applicant an outline of the scope of the study and a nonbinding estimate of the cost to perform the study. The interconnection system impact study shall include any pertinent elements from among the following:

- (1) A load flow study;
- (2) Identification of affected systems;
- (3) An analysis of equipment interrupting ratings;
- (4) A protection coordination study;
- (5) Voltage drop and flicker studies;
- (6) Protection and set point coordination studies;
- (7) Grounding reviews; and
- (8) Impact on system operation.

*b.* An interconnection system impact study shall consider any necessary criteria from among the following:

- (1) A short-circuit analysis;
- (2) A stability analysis;
- (3) Alternatives for mitigating adverse system impacts on affected systems;
- (4) Voltage drop and flicker studies;
- (5) Protection and set point coordination studies; and
- (6) Grounding reviews.

*c.* The final interconnection system impact study shall provide the following:

- (1) The underlying assumptions of the study;
- (2) The results of the analyses;
- (3) A list of any potential impediments to providing the requested interconnection service;
- (4) Required distribution upgrades; and
- (5) A nonbinding estimate of cost and time to construct any required distribution upgrades.

*d.* Either party can require that the Standard Interconnection System Impact Study Agreement in Appendix F (199—45.19(476)) be used. However, if both parties agree, an alternative form can be used.

**45.11(7)** Interconnection facilities study. Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4) "a," an interconnection facilities study shall be performed as follows:

*a.* Before performing the study, the utility shall provide the applicant an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

*b.* The interconnection facilities study shall estimate the cost of the equipment, engineering, procurement and construction work, including overheads, needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study. The interconnection facilities study shall identify:

- (1) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;
- (2) The nature and estimated cost of the utility's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and
- (3) An estimate for the time required to complete the construction and installation of the interconnection facilities and distribution upgrades.

*c.* The utility may agree to permit an applicant to arrange separately for a third party to design and construct the required interconnection facilities. In such a case, when the applicant agrees to separately

arrange for design and construction, and to comply with security and confidentiality requirements, the utility shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the utility's specifications.

*d.* Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the utility shall provide the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) for the applicant to sign within three business days of the date the utility makes its determination.

*e.* In the event that distribution upgrades are identified in the interconnection system impact study that shall be added only in the event that customers with higher review order positions not yet interconnected eventually complete and interconnect their generation facilities, the applicant may elect to interconnect without paying the estimate for such upgrades at the time of the interconnection, provided that the applicant pays for such upgrades prior to commencement of construction of such upgrades to be completed by the time the customer with higher review order position is ready to interconnect. If the applicant does not pay for such upgrades at that time, the utility shall require the applicant to immediately disconnect its distributed generation facility to accommodate the customer with higher review order position.

*f.* Either party can require that the Standard Interconnection Facilities Study Agreement in Appendix G (199—45.20(476)) be used. However, if both parties agree, an alternative form can be used.

**45.11(8)** When a utility determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the distributed generation facility, the utility shall provide the applicant with the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)). If the interconnection request is denied, the utility shall provide the applicant with a written explanation as to its reasons for denying interconnection. If denied, the interconnection request does not retain its position in the review order.

**45.11(9)** Within 30 business days after receipt of the Standard Distributed Generation Interconnection Agreement, the applicant shall provide all necessary information required of the applicant by the agreement, and the utility shall develop all other information required of the utility by the agreement. After completing the agreement with the additional information, the utility will transmit the completed agreement to the applicant. Within 30 business days after receipt of the completed agreement, the applicant shall sign and return the completed agreement to the utility. If the applicant does not sign and return the agreement within 30 business days after receipt, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline extended by no more than 15 business days, prior to the expiration of the 30-business-day period. The initial request for extension may not be denied by the utility. If the applicant does not sign and return the agreement after the 15-business-day extension, the interconnection request shall be deemed withdrawn. If withdrawn, the interconnection request does not retain its position in the review order. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the Standard Distributed Generation Interconnection Agreement.

**45.11(10)** The Standard Distributed Generation Interconnection Agreement is not final until:

- a.* The requirements of the agreement are satisfied; and
- b.* The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection; and
- c.* The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- d.* The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)).

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.12(476) Disputes.**

**45.12(1)** A party shall attempt to resolve all disputes regarding interconnection promptly and in a good-faith manner. A party shall provide prompt written notice of the existence of the dispute, including sufficient detail to identify the scope of the dispute, to the other party in order to attempt to resolve the dispute in a good-faith manner.

**45.12(2)** An informal meeting between the parties shall be held within ten business days after receipt of the written notice. Persons with decision-making authority from each party shall attend such meeting. In the event said dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each party shall also attend the informal meeting. If the parties agree, such a meeting may be conducted by teleconference.

**45.12(3)** Subsequent to the informal meeting referred to in subrule 45.12(2), a party may seek resolution of any disputes through the 199—Chapter 6 complaint procedures of the board. Dispute resolution under these procedures will initially be conducted informally under rules 199—6.2(476) through 199—6.4(476) to reach resolution with minimal cost and delay. If any party is dissatisfied with the outcome of the informal process, the party may file a formal complaint with the board under rule 199—6.5(476).

**45.12(4)** Pursuit of dispute resolution shall not affect an interconnection applicant with regard to consideration of an interconnection request or an interconnection applicant's position in the utility's interconnection review order.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.13(476) Records and reports.**

**45.13(1)** For each completed interconnection request received by the utility, the utility shall maintain records of the following for a minimum of three years:

- a. The total nameplate capacity and fuel type of the distributed generation facility;
- b. The level of review received (Level 1, Level 2, Level 3, or Level 4); and
- c. Whether the interconnection was approved or denied.

**45.13(2)** Beginning May 1, 2011, each utility shall file a nonconfidential annual report detailing the information required in subrule 45.13(1) for the previous calendar year.

**45.13(3)** Each utility shall retain copies of studies it performs to determine the feasibility of, system impacts of, or facilities required by the interconnection of any distributed generation facility. The utility shall provide the applicant copies of any studies performed in analyzing the applicant's interconnection request upon applicant request. However, a utility has no obligation to provide any future applicants any information regarding prior interconnection requests to the extent that providing the information would violate security requirements or confidentiality agreements, or is contrary to state or federal law. In appropriate circumstances, the utility may require a confidentiality agreement prior to release of this information.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.14(476) Appendix A – Level 1 standard application form and distributed generation interconnection agreement.**

LEVEL 1:

STANDARD APPLICATION FORM AND INTERCONNECTION AGREEMENT

Interconnection Request Application Form and  
Conditional Agreement to Interconnect  
(For Lab-Certified Inverter-Based Distributed Generation Facilities 10 kVA or Smaller)

AN APPLICATION FEE OF \$50.00 MUST BE SUBMITTED WITH THE APPLICATION

Interconnection Applicant Contact Information

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Alternate Contact Information (if different from Applicant)

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Equipment Contractor

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_  
License number (if applicable): \_\_\_\_\_  
Active License? (if applicable) Yes \_\_\_\_ No \_\_\_\_

Electrical Contractor (if Different from Equipment Contractor):

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
 Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_  
 License number: \_\_\_\_\_  
 Active License? Yes \_\_\_ No \_\_\_

Is the Interconnection Customer requesting Net Metering in accordance with Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff?  
 Yes \_\_\_ No \_\_\_

Intent of Generation

- \_\_\_ Net Metering (Unit will operate in parallel and will export power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff)
- \_\_\_ Self-Use and Sales to the Utility (Unit will operate in parallel and may export and sell excess power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.5 and the utility's tariff)
- \_\_\_ Other (Please explain): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Distributed Generation Facility ("Facility") Information

Facility Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Utility serving Facility site: \_\_\_\_\_  
 Account Number of Facility site (existing utility customers): \_\_\_\_\_  
 Inverter Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_

Is the inverter lab-certified as that term is defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation (199 IAC 45.1)?  
 Yes \_\_\_ No \_\_\_

(If yes, attach manufacturer's technical specifications and label information from a nationally recognized testing laboratory.)

Generation Facility Nameplate Rating: \_\_\_\_\_(kW) \_\_\_\_\_ (kVA) \_\_\_\_\_(AC Volts)  
 Energy Source: Wind \_\_\_ Solar \_\_\_ Biomass \_\_\_ Hydro \_\_\_ Diesel \_\_\_  
 Natural Gas \_\_\_ Fuel Oil \_\_\_ Other: \_\_\_\_\_  
 Energy Converter Type: Wind Turbine \_\_\_ Photovoltaic Cell \_\_\_ Fuel Cell \_\_\_  
 Reciprocating Engine \_\_\_ Other: \_\_\_\_\_

Commissioning Test Date: \_\_\_\_\_

(If the Commissioning Test Date changes, the interconnection customer must inform the utility as soon as it is aware of the changed date.)

Insurance Disclosure

The attached terms and conditions contain provisions related to liability and indemnification and should be carefully considered by the interconnection customer. The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance.

Other Facility Information

One Line Diagram – A basic drawing of an electric circuit in which one or more conductors are represented by a single line and each electrical device and major component of the installation, from the generator to the point of interconnection, are noted by symbols.

One Line Diagram attached: \_\_\_\_\_ Yes

Plot Plan – A map showing the distributed generation facility's location in relation to streets, alleys, or other geographic markers.

Plot Plan attached: \_\_\_\_\_ Yes

Customer Signature

I hereby certify that: (1) I have read and understand the terms and conditions, which are attached hereto by reference; (2) I hereby agree to comply with the attached terms and conditions; and (3) to the best of my knowledge, all of the information provided in this application request form is complete and true.

Applicant Signature: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

.....

This Application Form and Interconnection Agreement is comprised of: 1) the Level 1 Standard Application Form and Interconnection Agreement; 2) the Attachment of Terms and Conditions for Interconnection; and 3) the Certificate of Completion.

NOTE: If the Certificate of Completion is not completed and returned to the utility within 12 months following the utility's dated conditional agreement to interconnect below, this Application Form and Interconnection Agreement will automatically terminate and be of no further force and effect.

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Conditional Agreement to Interconnect Distributed Generation Facility

Receipt of the application fee is acknowledged and, by its signature below, the utility has determined the interconnection request is complete. Interconnection of the distributed generation facility is conditionally approved contingent upon the attached terms and conditions of this Agreement, the return of the attached Certificate of Completion, duly executed verification of electrical inspection and successful witness test.

Utility Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_

ATTACHMENT

## Level 1: Standard Interconnection Agreement

Terms and Conditions for Interconnection

- 1) Construction of the Distributed Generation Facility. The interconnection customer may proceed to construct (including operational testing not to exceed 2 hours) the distributed generation facility, once the conditional Agreement to interconnect a distributed generation facility has been signed by the utility.
- 2) Final Interconnection and Operation. The interconnection customer may operate the distributed generation facility and interconnect with the utility's electric distribution system after all of the following have occurred:
  - a) Electrical Inspection: Upon completing construction, the interconnection customer shall cause the distributed generation facility to be inspected by the local electrical inspection authority, who shall establish that the distributed generation facility meets local code requirements.
  - b) Certificate of Completion: The interconnection customer shall provide the utility with a copy of the Certificate of Completion with all relevant and necessary information fully completed by the interconnection customer, as well as an inspection form from the local electrical inspection authority demonstrating that the distributed generation facility passed inspection.
  - c) The utility has completed its witness test as per the following:
    - i) The interconnection customer shall provide the utility at least 15 business days' notice of the planned commissioning test for the distributed generation facility. Within 10 business days after the commissioning test, the utility may, upon reasonable notice and at a mutually convenient time, conduct a witness test of the distributed generation facility to ensure that all equipment has been appropriately installed and operating as designed and in accordance with the requirements of IEEE 1547.
    - ii) If the utility does not perform the witness test within the 10 business days after the commissioning test or such other time as is mutually agreed to by the Parties, the witness test is deemed waived, unless the utility cannot do so for good cause. In these cases, upon utility request, the interconnection customer shall agree to another date for the test within 10 business days after the original scheduled date.
- 3) IEEE 1547. The distributed generation facility shall be installed, operated and tested in accordance with the requirements of The Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems," as well as any applicable federal, state, or local laws, regulations, codes, ordinances, orders, or similar directives of any government or other authority having jurisdiction.
- 4) Access. The utility must have access to the isolation device or disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the utility shall provide notice to the customer prior to using its right of access.
- 5) Metering. Any required metering shall be installed pursuant to the utility's metering rules filed with the Iowa Utilities Board under subrule 199 IAC 20.2(5).

- 6) Disconnection. The utility may disconnect the distributed generation facility upon any of the following conditions, but must reconnect the distributed generation facility once the condition is cured:
- a) For scheduled outages, provided that the distributed generation facility is treated in the same manner as utility's load customers;
  - b) For unscheduled outages or emergency conditions;
  - c) If the distributed generation facility does not operate in a manner consistent with this Agreement or the applicable requirements of 199 IAC Chapter 15 or 45;
  - d) Improper installation or failure to pass the witness test;
  - e) If the distributed generation facility is creating a safety, reliability, or power quality problem;
  - f) The interconnection equipment used by the distributed generation facility is delisted by the Nationally Recognized Testing Laboratory that provided the listing at the time the interconnection was approved;
  - g) Unauthorized modification of the interconnection facilities or the distributed generation facility; or
  - h) Unauthorized connection to the utility's electric system.
- 7) Indemnification. The interconnection customer shall indemnify and defend the utility and the utility's directors, officers, employees, and agents from all claims, damages and expenses, including reasonable attorney's fees, to the extent resulting from the interconnection customer's negligent installation, operation, modification, maintenance, or removal of its distributed generation facility or interconnection facilities, or the interconnection customer's willful misconduct or breach of this Agreement. The utility shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the utility's negligent installation, operation, modification, maintenance, or removal of its interconnection facilities or electric distribution system, or the utility's willful misconduct or breach of this Agreement.
- 8) Insurance. The interconnection customer shall provide the utility with proof that it has a current homeowner's insurance policy or other general liability policy.
- 9) Limitation of Liability. Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever, provided that in no event shall death, bodily injury or third-party claims be construed as indirect or consequential damages.
- 10) Termination. This Agreement will remain in effect until terminated and may be terminated under the following conditions:
- a) By interconnection customer - The interconnection customer may terminate this interconnection agreement by providing written notice to the utility. If the interconnection customer ceases operation of the distributed generation facility, the interconnection customer must notify the utility.
  - b) By the utility - The utility may terminate this Agreement without liability to the interconnection customer if the interconnection customer fails to remedy a violation of terms of this Agreement within 30 calendar days after notice, or such other date as may be mutually agreed to in writing prior to the expiration of the 30 calendar day remedy period. The termination date may be no less than 30 calendar days after the interconnection customer receives notice of its violation from the utility.

- 11) Modification of Distributed Generation Facility. The interconnection customer must receive written authorization from the utility before making any changes to the distributed generation facility that could affect the utility's distribution system. If the interconnection customer makes such modifications without the utility's prior written authorization, the utility shall have the right to disconnect the distributed generation facility.
- 12) Permanent Disconnection. In the event the Agreement is terminated, the utility shall have the right to disconnect its facilities or direct the interconnection customer to disconnect its distributed generation facility.
- 13) Disputes. Each Party agrees to attempt to resolve all disputes regarding the provisions of this Agreement that cannot be resolved between the two Parties pursuant to the dispute resolution provisions found in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.12).
- 14) Governing Law, Regulatory Authority, and Rules. The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Iowa. Nothing in this Agreement is intended to affect any other agreement between the utility and the interconnection customer.
- 15) Survival Rights. This Agreement shall remain in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Agreement.
- 16) Assignment/Transfer of Ownership of the Distributed Generation Facility. This Agreement shall terminate upon the transfer of ownership of the distributed generation facility to a new owner unless the transferring owner assigns the Agreement to the new owner, the new owner agrees in writing to the terms of this Agreement, and the transferring owner so notifies the utility in writing prior to the transfer of ownership.
- 17) Definitions. Any term used herein and not defined shall have the same meaning as the defined terms used in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1).
- 18) Notice. The Parties may mutually agree to provide notices, demands, comments, or requests by electronic means such as e-mail. Absent agreement to electronic communication, or unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given when receipt is confirmed after notices are delivered in person, delivered by recognized national courier service, or sent by first-class mail, postage prepaid, return receipt requested, to the person specified below:

If Notice is to Interconnection Customer:

Use the contact information provided in the interconnection customer's application. The interconnection customer is responsible for notifying the utility of any change in the contact party information, including change of ownership.

If Notice is to Utility:

Use the contact information provided below. The utility is responsible for notifying the interconnection customer of any change in the contact party information.

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

- 19) Interruptions. The utility is not responsible for any lost opportunity or other costs incurred by the interconnection customer as a result of an interruption of service.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.15(476) Appendix B – Standard certificate of completion.**

CERTIFICATE OF COMPLETION

(To be completed and returned to the utility when installation is complete and final electric inspector approval has been obtained – Use contact information provided on the utility’s web page for generator interconnection to obtain mailing address/fax number/e-mail address)

Interconnection Customer Information

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Installer: \_\_\_\_\_ Check if owner-installed: \_\_\_\_\_

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Final Electric Inspection and Interconnection Customer Signature

The distributed generation facility is complete and has been approved by the local electric inspector having jurisdiction. A signed copy of the electric inspector’s form indicating final approval is attached. The interconnection customer acknowledges that it shall not operate the distributed generation facility until receipt of the final acceptance and approval by the utility as provided below.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of interconnection customer)

Printed Name: \_\_\_\_\_

Check if copy of signed electric inspection form is attached: \_\_\_\_\_  
Check if copy of as-built documents is attached (projects larger than 10 kVA only): \_\_\_\_\_

.....

Acceptance and Final Approval for Interconnection (for utility use only)

The interconnection agreement is approved and the distributed generation facility is approved for interconnected operation upon the signing and return of this Certificate of Completion by utility:

Electric Distribution Company waives Witness Test? (Initial) Yes (\_\_\_\_) No (\_\_\_\_)

If not waived, date of successful Witness Test: \_\_\_\_\_ Passed: (Initial) (\_\_\_\_)

Utility Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**199—45.16(476) Appendix C – Levels 2 to 4: standard application form.**

LEVELS 2 TO 4:  
STANDARD INTERCONNECTION REQUEST APPLICATION FORM  
(For Distributed Generation Facilities 10 MVA or less)

Interconnection Customer Contact Information

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Alternative Contact Information (if different from Customer Contact Information)

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Facility Address (if different from above): \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Utility Serving Facility Site: \_\_\_\_\_  
Account Number of Facility Site (existing utility customers): \_\_\_\_\_  
Inverter Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_

Equipment Contractor

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Electrical Contractor (if different from Equipment Contractor)

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone (Daytime): \_\_\_\_\_ (Evening): \_\_\_\_\_  
Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_  
License Number: \_\_\_\_\_

Electric Service Information for Customer Facility where Generator will be Interconnected

Capacity: \_\_\_\_\_ (Amps) Voltage: \_\_\_\_\_ (Volts)  
Type of Service:  Single Phase  Three Phase

If 3 Phase Transformer, Indicate Type:  
Primary Winding  Wye  Delta  
Secondary Winding  Wye  Delta

Transformer Size: \_\_\_\_\_ Impedance: \_\_\_\_\_

Intent of Generation

- Offset Load (Unit will operate in parallel, but will not export power to utility)
- Net Metering (Unit will operate in parallel and will export power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff)
- Self-Use and Sales to the Utility (Unit will operate in parallel and may export and sell excess power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.5 and the utility's tariff)
- Wholesale Market Transaction (Unit will operate in parallel and participate in MISO or other wholesale power markets pursuant to separate requirements and agreements with MISO or other transmission providers, and applicable rules of the Federal Energy Regulatory Commission)
- Back-up Generation (Units that temporarily operate in parallel with the electric distribution system for more than 100 milliseconds)

Note: Back-up units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

Generator & Prime Mover Information

Energy Source (Hydro, Wind, Solar, Process Byproduct, Biomass, Oil, Natural Gas, Coal, etc.): \_\_\_\_\_

Energy Converter Type (Wind Turbine, Photovoltaic Cell, Fuel Cell, Steam Turbine, etc.): \_\_\_\_\_

Generator Size: \_\_\_\_\_ kW or \_\_\_\_\_ kVA      Number of Units: \_\_\_\_\_

Total Capacity: \_\_\_\_\_ kW or \_\_\_\_\_ kVA

Generator Type (Check one):  
 Induction     Inverter     Synchronous     Other: \_\_\_\_\_

Requested Procedure Under Which to Evaluate Interconnection Request

Please indicate below which review procedure applies to the interconnection request. The review procedure used is subject to confirmation by the utility.

- Level 2 – Lab-certified interconnection equipment with an aggregate electric nameplate capacity less than or equal to 2 MVA. Lab-certified is defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1). (Application fee is \$100 plus \$1.00 per kVA.)
- Level 3 – Distributed generation facility does not export power. Nameplate capacity rating is less than or equal to 50 kVA if connecting to area network or less than or equal to 10 MVA if connecting to a radial distribution feeder. (Application fee amount is \$500 plus \$2.00 per kVA.)

\_\_\_ Level 4 – Nameplate capacity rating is less than or equal to 10 MVA and the distributed generation facility does not qualify for a Level 1, Level 2, or Level 3 review, or the distributed generation facility has been reviewed but not approved under a Level 1, Level 2, or Level 3 review. (Application fee amount is \$1,000 plus \$2.00 per kVA, to be applied toward any subsequent studies related to this application.)

Note: Descriptions for interconnection review categories do not list all criteria that must be satisfied. For a complete list of criteria, please refer to Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).

Distributed Generation Facility Information:

Commissioning Test Date: \_\_\_\_\_

List interconnection components/systems to be used in the distributed generation facility that are lab-certified.

Component/System	NRTL Providing Label & Listing
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Please provide copies of manufacturer brochures or technical specifications.

Energy Production Equipment/Inverter Information:

\_\_\_ Synchronous \_\_\_ Induction \_\_\_ Inverter \_\_\_ Other: \_\_\_\_\_  
 Rating: \_\_\_\_\_ kW                      Rating: \_\_\_\_\_ kVA  
 Rated Voltage: \_\_\_\_\_ Volts  
 Rated Current: \_\_\_\_\_ Amps  
 System Type Tested (Total System): \_\_\_ Yes \_\_\_ No; attach product literature

For Synchronous Machines:

Note: Contact utility to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: \_\_\_\_\_  
 Model No.: \_\_\_\_\_ Version No.: \_\_\_\_\_  
 Submit copies of the Saturation Curve and the Vee Curve  
 \_\_\_ Salient \_\_\_ Non-Salient  
 Torque: \_\_\_ lb-ft Rated RPM: \_\_\_\_\_ Field Amperes: \_\_\_\_\_ at rated generator  
 voltage and current and \_\_\_\_\_ % PF over-excited  
 Type of Exciter: \_\_\_\_\_  
 Output Power of Exciter: \_\_\_\_\_  
 Type of Voltage Regulator: \_\_\_\_\_  
 Locked Rotor Current: \_\_\_\_\_ Amps Synchronous Speed: \_\_\_\_\_ RPM  
 Winding Connection: \_\_\_\_\_ Min. Operating Freq./Time: \_\_\_\_\_  
 Generator Connection: \_\_\_ Delta \_\_\_ Wye \_\_\_ Wye Grounded  
 Direct-axis Synchronous Reactance: (Xd) \_\_\_\_\_ ohms  
 Direct-axis Transient Reactance: (X'd) \_\_\_\_\_ ohms  
 Direct-axis Sub-transient Reactance: (X''d) \_\_\_\_\_ ohms  
 Negative Sequence Reactance: \_\_\_\_\_ ohms  
 Zero Sequence Reactance: \_\_\_\_\_ ohms  
 Neutral Impedance or Grounding Resister (if any): \_\_\_\_\_ ohms

For Induction Machines:

Note: Contact utility to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: \_\_\_\_\_  
 Model No.: \_\_\_\_\_ Version No.: \_\_\_\_\_  
 Locked Rotor Current: \_\_\_\_\_ Amps  
 Rotor Resistance (Rr): \_\_\_\_\_ ohms Exciting Current: \_\_\_\_\_ Amps  
 Rotor Reactance (Xr): \_\_\_\_\_ ohms Reactive Power Required: \_\_\_\_\_  
 Magnetizing Reactance (Xm): \_\_\_\_\_ ohms \_\_\_\_\_ VARs (No Load)  
 Stator Resistance (Rs): \_\_\_\_\_ ohms \_\_\_\_\_ VARs (Full Load)  
 Stator Reactance (Xs): \_\_\_\_\_ ohms  
 Short Circuit Reactance (X'd): \_\_\_\_\_ ohms  
 Phases: \_\_\_ Single \_\_\_ Three-Phase  
 Frame Size: \_\_\_\_\_ Design Letter: \_\_\_ Temp. Rise: \_\_\_\_\_ °C.

Reverse Power Relay Information (Level 3 Review Only):

Manufacturer: \_\_\_\_\_  
 Relay Type: \_\_\_\_\_ Model Number: \_\_\_\_\_  
 Reverse Power Setting: \_\_\_\_\_  
 Reverse Power Time Delay (if any): \_\_\_\_\_

Additional Information For Inverter-Based Facilities:

Inverter Information:

Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_  
Type:  Forced Commutated  Line Commutated  
Rated Output: \_\_\_\_\_ Watts \_\_\_\_\_ Volts  
Efficiency: \_\_\_\_\_% Power Factor: \_\_\_\_\_%  
Inverter UL1741 Listed:  Yes  No

DC Source/Prime Mover:

Rating: \_\_\_\_\_ kW Rating: \_\_\_\_\_ kVA  
Rated Voltage: \_\_\_\_\_ Volts  
Open Circuit Voltage (if applicable): \_\_\_\_\_ Volts  
Rated Current: \_\_\_\_\_ Amps  
Short Circuit Current (if applicable): \_\_\_\_\_ Amps

Other Facility Information:

One-Line Diagram – A basic drawing of an electric circuit in which one or more conductors are represented by a single line and each electrical device and major component of the installation, from the generator to the point of interconnection, are noted by symbols.

One-Line Diagram attached:  Yes

Plot Plan – A map showing the distributed generation facility’s location in relation to streets, alleys, or other geographic markers.

Plot Plan attached:  Yes

Customer Signature:

I hereby certify that all of the information provided in this Interconnection Request Application Form is true.

Applicant Signature: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

An application fee is required before the application can be processed. Please verify that the appropriate fee is included with the application:

Amount: \_\_\_\_\_

Utility Acknowledgement:

Receipt of the application fee is acknowledged and this interconnection request is complete.

Utility Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**199—45.17(476) Appendix D – Levels 2 to 4: standard distributed generation interconnection agreement.**

LEVELS 2 TO 4:  
STANDARD INTERCONNECTION AGREEMENT  
(For Distributed Generation Facilities with a capacity of 10 MVA or less)

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_, ("utility"), a \_\_\_\_\_ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to install or direct the installation of a distributed generation facility, or is proposing a generating capacity addition to an existing distributed generation facility, consistent with the interconnection request application form completed by interconnection customer on \_\_\_\_\_; and

Whereas, the interconnection customer will operate and maintain, or cause the operation and maintenance of, the distributed generation facility; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system.

Now, therefore, in consideration of the premises and mutual covenants set forth in this Agreement, the Parties covenant and agree as follows:

Article 1.        Scope and Limitations of Agreement

- 1.1 This Agreement shall be used for all approved interconnection requests for distributed generation facilities that fall under Levels 2, 3, and 4 according to the procedures set forth in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).
- 1.2 This Agreement governs the terms and conditions under which the distributed generation facility will interconnect to, and operate in parallel with, the utility's electric distribution system.
- 1.3 This Agreement does not constitute an agreement to purchase or deliver the interconnection customer's power.
- 1.4 Nothing in this Agreement is intended to affect any other agreement between the utility and the interconnection customer.
- 1.5 Terms used in this Agreement are defined in Attachment 1 hereto or in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) unless otherwise noted.
- 1.6 Responsibilities of the Parties
  - 1.6.1 The Parties shall perform all obligations of this Agreement in accordance with all applicable laws, regulations, codes, ordinances, orders, or similar directives of any government or other authority having jurisdiction.

- 1.6.2 The utility shall construct, own, operate, and maintain its interconnection facilities in accordance with this Agreement.
- 1.6.3 The interconnection customer shall construct, own, operate, and maintain its distributed generation facility and interconnection facilities in accordance with this Agreement.
- 1.6.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for, the facilities that it now owns or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair, and condition of its respective lines and appurtenances on its respective sides of the point of interconnection.
- 1.6.5 The interconnection customer agrees to design, install, maintain, and operate its distributed generation facility so as to minimize the likelihood of causing an adverse system impact on the electric distribution system or any other electric system that is not owned or operated by the utility.

#### 1.7 Parallel Operation Obligations

Once the distributed generation facility has been authorized to commence parallel operation, the interconnection customer shall abide by all operating procedures established in IEEE Standard 1547 and any other applicable laws, statutes or guidelines, including those specified in Attachment 4 of this Agreement.

#### 1.8 Metering

The interconnection customer shall be responsible for the cost to purchase, install, operate, maintain, test, repair, and replace metering and data acquisition equipment specified in Attachments 5 and 6 of this Agreement.

#### 1.9 Reactive Power

- 1.9.1 Interconnection customers with a distributed generation facility larger than or equal to 1 MVA shall design their distributed generation facilities to maintain a power factor at the point of interconnection between .95 lagging and .95 leading at all times. Interconnection customers with a distributed generation facility smaller than 1 MVA shall design their distributed generation facility to maintain a power factor at the point of interconnection between .90 lagging and .90 leading at all times.
- 1.9.2 Any utility requirements for meeting a specific voltage or specific reactive power schedule as a condition for interconnection shall be clearly specified in Attachment 4. Under no circumstance shall the utility's additional requirements for voltage or reactive power schedules be outside of the agreed-upon operating parameters defined in Attachment 4.
- 1.9.3 If the interconnection customer does not operate the distributed generation facility within the power factor range specified in Attachment 4, or does not operate the distributed generation facility in accordance with a voltage or reactive power schedule specified in Attachment 4, the interconnection customer is in default, and the terms of Article 6.5 apply.

## 1.10 Standards of Operations

The interconnection customer must obtain all certifications, permits, licenses, and approvals necessary to construct, operate, and maintain the facility and to perform its obligations under this Agreement. The interconnection customer is responsible for coordinating and synchronizing the distributed generation facility with the utility's system. The interconnection customer is responsible for any damage that is caused by the interconnection customer's failure to coordinate or synchronize the distributed generation facility with the electric distribution system. The interconnection customer agrees to be primarily liable for any damages resulting from the continued operation of the distributed generation facility after the utility ceases to energize the line section to which the distributed generation facility is connected. In Attachment 4, the utility shall specify the shortest reclose time setting for its protection equipment that could affect the distributed generation facility. The utility shall notify the interconnection customer at least 10 business days prior to adopting a faster reclose time on any automatic protective equipment, such as a circuit breaker or line recloser, that might affect the distributed generation facility.

## Article 2. Inspection, Testing, Authorization, and Right of Access

### 2.1 Equipment Testing and Inspection

The interconnection customer shall test and inspect its distributed generation facility including the interconnection equipment prior to interconnection in accordance with IEEE Standard 1547 (2003) and IEEE Standard 1547.1 (2005). The interconnection customer shall not operate its distributed generation facility in parallel with the utility's electric distribution system without prior written authorization by the utility as provided for in Articles 2.1.1-2.1.3.

2.1.1 The utility shall perform a witness test after construction of the distributed generation facility is completed, but before parallel operation, unless the utility specifically waives the witness test. The interconnection customer shall provide the utility at least 15 business days' notice of the planned commissioning test for the distributed generation facility. If the utility performs a witness test at a time that is not concurrent with the commissioning test, it shall contact the interconnection customer to schedule the witness test at a mutually agreeable time within 10 business days after the scheduled commissioning test designated on the application. If the utility does not perform the witness test within 10 business days after the commissioning test, the witness test is deemed waived unless the Parties mutually agree to extend the date for scheduling the witness test, or unless the utility cannot do so for good cause, in which case, the Parties shall agree to another date for scheduling the test within 10 business days after the original scheduled date. If the witness test is not acceptable to the utility, the interconnection customer has 30 business days to address and resolve any deficiencies. This time period may be extended upon agreement in writing between the utility and the interconnection customer. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the utility, the applicable cure provisions of Article 6.5 shall apply. The interconnection customer shall, if requested by the utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

- 2.1.2 If the interconnection customer conducts interim testing of the distributed generation facility prior to the witness test, the interconnection customer shall obtain permission from the utility before each occurrence of operating the distributed generation facility in parallel with the electric distribution system. The utility may, at its own expense, send qualified personnel to the distributed generation facility to observe such interim testing, but it cannot mandate that these tests be considered in the final witness test. The utility is not required to observe the interim testing or precluded from requiring the tests be repeated at the final witness test.
- 2.1.3 After the distributed generation facility passes the witness test, the utility shall affix an authorized signature to the certificate of completion and return it to the interconnection customer approving the interconnection and authorizing parallel operation. The authorization shall not be conditioned or delayed.

## 2.2 Commercial Operation

The interconnection customer shall not operate the distributed generation facility, except for interim testing as provided in Article 2.1, until such time as the certificate of completion is signed by all Parties.

## 2.3 Right of Access

The utility must have access to the isolation device or disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the utility shall provide notice to the customer prior to using its right of access.

## Article 3. Effective Date, Term, Termination, and Disconnection

### 3.1 Effective Date

This Agreement shall become effective upon execution by all Parties.

### 3.2 Term of Agreement

This Agreement shall become effective on the effective date and shall remain in effect unless terminated in accordance with Article 3.3 of this Agreement.

### 3.3 Termination

- 3.3.1 The interconnection customer may terminate this Agreement at any time by giving the utility 30 calendar days' prior written notice.
- 3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.
- 3.3.3 The utility may terminate, upon 60 calendar days' prior written notice, for failure of the interconnection customer to complete construction of the distributed generation facility within 12 months after the in-service date as specified by the Parties in Attachment 2, which may be extended by mutual written agreement between the Parties prior to the expiration of the 12-month period.
- 3.3.4 The utility may terminate this Agreement, upon 60 calendar days' prior written notice, if the interconnection customer has abandoned, cancelled, permanently disconnected or stopped development, construction, or operation of the distributed generation facility, or if the interconnection customer fails to operate the distributed generation facility in parallel with the utility's electric system for three consecutive years.

- 3.3.5 Upon termination of this Agreement, the distributed generation facility will be disconnected from the utility's electric distribution system. Terminating this Agreement does not relieve either Party of its liabilities and obligations that are owed or continuing when the Agreement is terminated.
- 3.3.6 If the Agreement is terminated, the interconnection customer loses its position in the interconnection review order.

#### 3.4 Temporary Disconnection

A Party may temporarily disconnect the distributed generation facility from the electric distribution system in the event one or more of the following conditions or events occurs:

- 3.4.1 Emergency conditions – Shall mean any condition or situation: (1) that in the judgment of the Party making the claim is likely to endanger life or property; or (2) that the utility determines is likely to cause an adverse system impact, or is likely to have a material adverse effect on the utility's electric distribution system, interconnection facilities or other facilities, or is likely to interrupt or materially interfere with the provision of electric utility service to other customers; or (3) that is likely to cause a material adverse effect on the distributed generation facility or the interconnection equipment. Under emergency conditions, the utility or the interconnection customer may suspend interconnection service and temporarily disconnect the distributed generation facility from the electric distribution system without giving notice to the other Party, provided that it gives notice as soon as practicable thereafter. The utility must notify the interconnection customer when it becomes aware of any conditions that might affect the interconnection customer's operation of the distributed generation facility. The interconnection customer shall notify the utility when it becomes aware of any condition that might affect the utility's electric distribution system. To the extent information is known, the notification shall describe the condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.
- 3.4.2 Scheduled maintenance, construction, or repair – the utility may interrupt interconnection service or curtail the output of the distributed generation facility and temporarily disconnect the distributed generation facility from the utility's electric distribution system when necessary for scheduled maintenance, construction, or repairs on utility's electric distribution system. To the extent possible, the utility shall provide the interconnection customer with notice five business days before an interruption. The utility shall coordinate the reduction or temporary disconnection with the interconnection customer; however, the interconnection customer is responsible for out-of-pocket costs incurred by the utility for deferring or rescheduling maintenance, construction, or repair at the interconnection customer's request.
- 3.4.3 Forced outages – The utility may suspend interconnection service to repair the utility's electric distribution system. The utility shall provide the interconnection customer with prior notice, if possible. If prior notice is not possible, the utility shall, upon written request, provide the interconnection customer with written documentation, after the fact, explaining the circumstances of the disconnection.

- 3.4.4 Adverse system impact – The utility must provide the interconnection customer with written notice of its intention to disconnect the distributed generation facility, if the utility determines that operation of the distributed generation facility creates an adverse system impact. The documentation that supports the utility's decision to disconnect must be provided to the interconnection customer. The utility may disconnect the distributed generation facility if, after receipt of the notice, the interconnection customer fails to remedy the adverse system impact within 12 days, unless emergency conditions exist, in which case, the provisions of Article 3.4.1 apply. The utility may continue to leave the generating facility disconnected until the adverse system impact is corrected to the satisfaction of both the utility and the adversely-impacted customer.
- 3.4.5 Modification of the distributed generation facility – The interconnection customer must receive written authorization from the utility prior to making any change to the distributed generation facility, other than a minor equipment modification. If the interconnection customer modifies its facility without the utility's prior written authorization, the utility has the right to disconnect the distributed generation facility until such time as the utility concludes the modification poses no threat to the safety or reliability of its electric distribution system.
- 3.4.6 Unauthorized connection to the utility's electric distribution system.
- 3.4.7 Failure of the distributed generation facility to operate in accordance with this Agreement or the applicable requirements of 199 IAC Chapter 15 or 45.
- 3.4.8 The utility is not responsible for any lost opportunity or other costs incurred by interconnection customer as a result of an interruption of service under Article 3.

Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

4.1 Interconnection Facilities

- 4.1.1 The interconnection customer shall pay for the cost of the interconnection facilities itemized in Attachment 3. The utility shall identify the additional interconnection facilities necessary to interconnect the distributed generation facility with the utility's electric distribution system, the cost of those facilities, and the time required to build and install those facilities, as well as an estimated date of completion of the building or installation of those facilities.
- 4.1.2 The interconnection customer is responsible for its expenses, including overheads, associated with owning, operating, maintaining, repairing, and replacing its interconnection equipment.

4.2 Distribution Upgrades

The utility shall design, procure, construct, install, and own any distribution upgrades. The actual cost of the distribution upgrades, including overheads, shall be directly assigned to the interconnection customer whose distributed generation facility caused the need for the distribution upgrades.

Article 5. Billing, Payment, Milestones, and Financial Security

- 5.1 Billing and Payment Procedures and Final Accounting (Applies to additional reviews conducted under a Level 2 review and Level 4 reviews)
- 5.1.1 The utility shall bill the interconnection customer for the design, engineering, construction, and procurement costs of utility-provided interconnection facilities and distribution upgrades contemplated by this Agreement as set forth in Attachment 3. The billing shall occur on a monthly basis, or as otherwise agreed to between the Parties. The interconnection customer shall pay each billing invoice within 30 calendar days after receipt, or as otherwise agreed to between the Parties, if a balance due is showing after any customer deposit funds have been expended.
- 5.1.2 Within 90 calendar days after completing the construction and installation of the utility's interconnection facilities and distribution upgrades described in Attachments 2 and 3 to this Agreement, the utility shall provide the interconnection customer with a final accounting report of any difference between: (1) the actual cost incurred to complete the construction and installation of the utility's interconnection facilities and distribution upgrades; and (2) the interconnection customer's previous deposit and aggregate payments to the utility for the interconnection facilities and distribution upgrades. If the interconnection customer's cost responsibility exceeds its previous deposit and aggregate payments, the utility shall invoice the interconnection customer for the amount due and the interconnection customer shall make payment to the utility within 30 calendar days. If the interconnection customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the utility shall refund to the interconnection customer an amount equal to the difference within 30 calendar days after the final accounting report. Upon request from the interconnection customer, if the difference between the budget estimate and the actual cost exceeds 20%, the utility will provide a written explanation for the difference.
- 5.1.3 If a Party disputes any portion of its payment obligation pursuant to this Article 5, the Party shall pay in a timely manner all non-disputed portions of its invoice, and the disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. A Party disputing a portion of an Article 5 payment shall not be considered to be in default of its obligations under this Article.
- 5.2 Interconnection Customer Deposit

At least 20 business days prior to the commencement of the design, procurement, installation, or construction of the utility's interconnection facilities and distribution upgrades, the interconnection customer shall provide the utility with a deposit equal to 100% of the estimated, nonbinding cost to procure, install, or construct any such facilities. However, when the estimated date of completion of the building or installation of facilities exceeds three months from the date of payment of the deposit, pursuant to Article 4.1.1 of this Agreement, this deposit may be held by the utility and will accrue interest in accordance with 199 IAC 20.4(4), with any interest to inure to the benefit of the interconnection customer.

Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default

6.1 Assignment

This Agreement may be assigned by either Party with the prior consent of the other Party. If the interconnection customer attempts to assign this Agreement, the assignee must agree to the terms of this Agreement in writing and such writing must be provided to the utility. Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason of the assignment. An assignee is responsible for meeting the same obligations as the assignor.

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (including mergers, consolidations, or transfers or a sale of a substantial portion of the Party's assets, between the Party and another entity), of the assigning Party that has an equal or greater credit rating and the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement.

6.1.2 The interconnection customer can assign this Agreement, without the consent of the utility, for collateral security purposes to aid in providing financing for the distributed generation facility.

6.2 Limitation on Damages

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages, including death, bodily injury, third-party claims, and reasonable attorney's fees, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees, and agents, or any of them, be liable to another Party, whether in tort, contract, or other basis in law or equity for any special, indirect, punitive, exemplary, or consequential damages, including lost profits, lost revenues, replacement power, cost of capital, or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

6.3 Indemnity

6.3.1 This provision protects each Party from liability incurred as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.

6.3.2 The interconnection customer shall indemnify and defend the utility and the utility's directors, officers, employees, and agents, from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the interconnection customer's negligent installation, operation, modification, maintenance, or removal of its distributed generation facility or interconnection facilities, or the interconnection customer's willful misconduct or breach of this Agreement.

- 6.3.3 The utility shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the utility's negligent installation, operation, modification, maintenance, or removal of its interconnection facilities or electric distribution system, or the utility's willful misconduct or breach of this Agreement.
- 6.3.4 Within 5 business days after receipt by an indemnified Party of any claim or notice that an action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply has commenced, the indemnified Party shall notify the indemnifying Party of such fact. The failure to notify, or a delay in notification, shall not affect a Party's indemnification obligation unless that failure or delay is materially prejudicial to the indemnifying Party.
- 6.3.5 If an indemnified Party is entitled to indemnification under this Article as a result of a claim, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, that indemnified Party may, at the expense of the indemnifying Party, contest, settle, or consent to the entry of any judgment with respect to, or pay in full, the claim.
- 6.3.6 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of the indemnified Party's actual loss, net of any insurance or other recovery by the indemnified Party.
- 6.4 Force Majeure
- 6.4.1 As used in this Article, a force majeure event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage, or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military, or lawfully established civilian authorities (e.g., MISO), or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.
- 6.4.2 If a force majeure event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the force majeure event ("Affected Party") shall notify the other Party of the existence of the force majeure event as soon as reasonably possible. The notification will specify the circumstances of the force majeure event, its expected duration (if known), and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance (if known). If the initial notification is verbal, it must be followed up with a written notification promptly thereafter. The Affected Party shall keep the other Party informed on a periodic basis of developments relating to the force majeure event until the event ends. The Affected Party may suspend or modify its obligations under this Agreement without liability only to the extent that the effect of the force majeure event cannot be otherwise mitigated.

## 6.5 Default

- 6.5.1 No default shall exist when the failure to discharge an obligation results from a force majeure event as defined in this Agreement, or the result of an act or omission of the other Party.
- 6.5.2 A Party shall be in default ("Default") of this Agreement if it fails in any material respect to comply with, observe, or perform, or defaults in the performance of, any covenant or obligation under this Agreement and fails to cure the failure within 60 calendar days after receiving written notice from the other Party. Upon a default of this Agreement, the non-defaulting Party shall give written notice of the default to the defaulting Party. Except as provided in Article 6.5.3, the defaulting Party has 60 calendar days after receipt of the default notice to cure the default; provided, however, if the default cannot be cured within 60 calendar days, the defaulting Party shall commence the cure within 20 calendar days after original notice and complete the cure within six months from receipt of the default notice; and, if cured within that time, the default specified in the notice shall cease to exist.
- 6.5.3 If a Party has assigned this Agreement in a manner that is not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, and is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party has 30 days from receipt of the default notice to cure the default.
- 6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for in this Article, the non-defaulting Party shall have the right to terminate this Agreement without liability by written notice, and be relieved of any further obligation under this Agreement and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due under this Agreement, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.

## Article 7. Insurance

- 7.1 For distributed generation facilities with a nameplate capacity less than 1 MVA, the interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance.
- 7.2 For distributed generation facilities with a nameplate capacity of 1 MVA or above, the interconnection customer shall carry sufficient insurance coverage so that the maximum comprehensive/general liability coverage that is continuously maintained by the interconnection customer during the term shall be not less than \$2,000,000 for each occurrence, and an aggregate, if any, of at least \$4,000,000. The utility, its officers, employees, and agents shall be added as an additional insured on this policy. The interconnection customer agrees to provide the utility with at least 30 calendar days' advance written notice of cancellation, reduction in limits, or non-renewal of any insurance policy required by this Article.

## Article 8. Dispute Resolution

- 8.1 Parties shall attempt to resolve all disputes regarding interconnection as provided in this Article in a good faith manner.

- 8.2 If there is a dispute between the Parties about an interpretation of the Agreement, the aggrieved Party shall issue a written notice to the other Party to the agreement that specifies the dispute and the Agreement articles that are disputed.
- 8.3 A meeting between the Parties shall be held within ten business days after receipt of the written notice. Persons with decision-making authority from each Party shall attend the meeting. If the dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each Party shall also attend the meeting. If the Parties agree, the meeting may be conducted by teleconference.
- 8.4 After the first meeting, each Party may seek resolution through the Iowa Utilities Board Chapter 6 complaint procedures (199 IAC 6). Dispute resolution under these procedures will initially be conducted informally under 199 IAC 6.2 through 6.4 to minimize cost and delay. If any Party is dissatisfied with the outcome of the informal process, the Party may file a formal complaint with the Board under 199 IAC 6.5.
- 8.5 Pursuit of dispute resolution may not affect an interconnection request or an interconnection applicant's position in the utility's interconnection review order.
- 8.6 If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

Article 9. Miscellaneous

9.1 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Iowa, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek change in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority. The language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against the utility or interconnection customer, regardless of the involvement of either Party in drafting this Agreement.

9.2 Amendment

Modification of this Agreement shall be only by a written instrument duly executed by both Parties.

9.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations in this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

#### 9.4 Waiver

9.4.1 Except as otherwise provided in this Agreement, a Party's compliance with any obligation, covenant, agreement, or condition in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting the waiver, but the waiver or failure to insist upon strict compliance with the obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

9.4.2 Failure of any Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or the rights under this Agreement terminated, shall not constitute a waiver or relinquishment of any rights set out in this Agreement, but the same shall be and remain at all times in full force and effect, unless and only to the extent expressly set forth in a written document signed by that Party granting the waiver or relinquishing any such rights. Any waiver granted, or relinquishment of any right, by a Party shall not operate as a relinquishment of any other rights or a waiver of any other failure of the Party granted the waiver to comply with any obligation, covenant, agreement, or condition of this Agreement.

#### 9.5 Entire Agreement

Except as provided in Article 9.1, this Agreement, including all attachments and the completed Standard Certificate of Completion (199 IAC 45.15), constitutes the entire Agreement between the Parties with reference to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

#### 9.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

#### 9.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties, or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

#### 9.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) that portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by the ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

9.9 Environmental Releases

Each Party shall notify the other Party of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the distributed generation facility or the interconnection facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided that Party makes a good faith effort to provide the notice no later than 24 hours after that Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

9.10 Subcontractors

Nothing in this Agreement shall prevent a Party from using the services of any subcontractor it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing services and each Party shall remain primarily liable to the other Party for the performance of the subcontractor.

9.10.1 A subcontract relationship does not relieve any Party of any of its obligations under this Agreement. The hiring Party remains responsible to the other Party for the acts or omissions of its subcontractor. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of the hiring Party.

9.10.2 The obligations under this Article cannot be limited in any way by any limitation of subcontractor's insurance.

Article 10. Notices

10.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first-class mail, postage prepaid, to the person specified below:

If Notice is to Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

If Notice is to Utility:

Utility: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Alternative Forms of Notice:

Any notice or request required or permitted to be given by either Party to the other Party and not required by this Agreement to be in writing may be given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out above.

10.2 Billing and Payment

Billings and payments shall be sent to the contacts specified for Notices in Article 10.1 above, unless a different address is set out below:

If Billing or Payment is to Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If Billing or Payment is to Utility:

Utility: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

10.3 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications that may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities. If no such operating representative is designated below, such notices will be sent to the contacts listed in Article 10.1 above.

Interconnection Customer's Operating Representative:

Name: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Utility's Operating Representative:

Name: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

10.4 Changes to the Notice Information

Either Party may change this notice information by giving five business days' written notice before the effective date of the change.

Article 11. Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Interconnection Customer:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

For the Utility:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## ATTACHMENT 1

### Levels 2 To 4: Standard Interconnection Agreement

#### Definitions

Adverse system impact – A negative effect that compromises the safety or reliability of the electric distribution system or materially affects the quality of electric service provided by the utility to other customers.

AEP facility – An AEP facility as defined in 199 IAC 15 (Iowa Utilities Board Chapter 15 rules on Cogeneration and Small Power Production), used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. An AEP facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

Applicable laws and regulations – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority, having jurisdiction over the Parties.

Commissioning test – Tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts. At a minimum, the scope of the commissioning tests performed shall include the commissioning test specified IEEE Standard 1547 Section 5.4 "Commissioning tests."

Distributed generation facility – A qualifying facility or an AEP facility.

Distribution upgrades – A required addition or modification to the utility's electric distribution system at or beyond the point of interconnection to accommodate the interconnection of a distributed generation facility. Distribution upgrades do not include interconnection facilities.

Electric distribution system – The facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas but generally carry less than 100 kilovolts of electricity. Electric distribution system has the same meaning as the term Area EPS, as defined in 3.1.6.1 of IEEE Standard 1547.

Facilities study – An engineering study conducted by the utility to determine the required modifications to the utility's electric distribution system, including the cost and the time required to build and install the modifications, as necessary to accommodate an interconnection request.

Force majeure event – Any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage, or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities (e.g., MISO), or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.

Governmental authority – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that this term does not include the interconnection customer, utility, or any affiliate of either.

IEEE Standard 1547 – The Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2003), "Standard for Interconnecting Distributed Resources with Electric Power Systems."

IEEE Standard 1547.1 – The IEEE Standard 1547.1 (2005), "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems."

Interconnection agreement or Agreement – The agreement between the interconnection customer and the utility. The interconnection agreement governs the connection of the distributed generation facility to the utility's electric distribution system and the ongoing operation of the distributed generation facility after it is connected to the utility's electric distribution system.

Interconnection customer – The entity entering into this Agreement for the purpose of interconnecting a distributed generation facility to the utility's electric distribution system.

Interconnection equipment – A group of components or an integrated system connecting an electric generator with a local electric power system or an electric distribution system that includes all interface equipment, including switchgear, protective devices, inverters, or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

Interconnection facilities – Facilities and equipment required by the utility to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility and the point of interconnection, including modification, additions, or upgrades that are necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

Interconnection request – An interconnection customer's request, on the required form, for the interconnection of a new distributed generation facility, or to increase the capacity or change the operating characteristics of an existing distributed generation facility that is interconnected with the utility's electric distribution system.

Interconnection study – Any of the following studies, as determined to be appropriate by the utility: the interconnection feasibility study, the interconnection system impact study, and the interconnection facilities study.

Iowa standard distributed generation interconnection rules – The most current version of the procedures for interconnecting distributed generation facilities adopted by the Iowa Utilities Board. See Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).

Parallel operation or Parallel – The state of operation that occurs when a distributed generation facility is connected electrically to the electric distribution system for longer than 100 milliseconds.

Point of interconnection – The point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling" defined in 3.1.13 of IEEE Standard 1547.

Qualifying facility – A cogeneration facility or a small power production facility that is a qualifying facility under 18 CFR Part 292, Subpart B, used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. A qualifying facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

Utility – Any electric utility that is subject to rate regulation by the Iowa Utilities Board.

Witness test – For lab-certified equipment, verification (either by an on-site observation or review of documents) by the utility that the interconnection installation evaluation required by IEEE Standard 1547 Section 5.3 and the commissioning test required by IEEE Standard 1547 Section 5.4 have been adequately performed. For interconnection equipment that has not been lab-certified, the witness test shall also include verification by the utility of the on-site design tests required by IEEE Standard 1547 Section 5.1 and verification by the utility of production tests required by IEEE Standard 1547 Section 5.2. All tests verified by the utility are to be performed in accordance with the test procedures specified by IEEE Standard 1547.1.

ATTACHMENT 2

## Levels 2 To 4: Standard Interconnection Agreement

Construction Schedule, Proposed Equipment & Settings

This attachment is to be completed by the interconnection customer and shall include the following:

1. The construction schedule for the distributed generation facility.
2. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, metering equipment, and distribution upgrades.
3. Component specifications for equipment identified in the one-line diagram.
4. Component settings.
5. Proposed sequence of operations.
6. A three-line diagram showing current potential circuits for protective relays.
7. Relay tripping and control schematic diagram.
8. A plot plan showing the distributed generation facility's location in relation to streets, alleys, address or other geographical markers.

ATTACHMENT 3

## Levels 2 To 4: Standard Interconnection Agreement

Description, Costs and Time Required to  
Build and Install the Utility's Interconnection Facilities

This attachment is to be completed by the utility and shall include the following:

1. Required interconnection facilities, including any required metering.
2. An estimate of itemized costs charged by the utility for interconnection, including overheads, based on results from prior studies.
3. An estimate for the time required to build and install the utility's interconnection facilities based on results from prior studies and an estimate of the date upon which the facilities will be completed.

ATTACHMENT 4

Levels 2 To 4: Standard Interconnection Agreement

Operating Requirements for Distributed Generation Facilities Operating in Parallel

The utility shall list specific operating practices that apply to this distributed generation interconnection and the conditions under which each listed specific operating practice applies.

ATTACHMENT 5

Levels 2 To 4: Standard Interconnection Agreement

Monitoring and Control Requirements

This attachment is to be completed by the utility and shall include the following:

1. The utility's monitoring and control requirements must be specified, along with a reference to the utility's written requirements documents from which these requirements are derived.
2. An internet link to the requirements documents.

ATTACHMENT 6

Levels 2 To 4: Standard Interconnection Agreement

Metering Requirements

This attachment is to be completed by the utility and shall include the following:

1. The metering requirements for the distributed generation facility.
2. Identification of the appropriate metering rules filed with the Iowa Utilities Board under subrule 199 IAC 20.2(5), and inspection and testing practices adopted under rule 199 IAC 20.6 that establish these requirements.
3. An internet link to these rules and practices.

ATTACHMENT 7

## Levels 2 To 4: Standard Interconnection Agreement

As-Built Documents

This attachment is to be completed by the interconnection customer and shall include the following:

When it returns the certificate of completion to the utility, the interconnection customer shall provide the utility with documents detailing the as-built status of the following:

1. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, and metering equipment.
2. Component specifications for equipment identified in the one-line diagram.
3. Component settings.
4. Proposed sequence of operations.
5. A three-line diagram showing current potential circuits for protective relays.
6. Relay tripping and control schematic diagram.

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

**199—45.18(476) Appendix E – Standard interconnection feasibility study agreement.**INTERCONNECTION FEASIBILITY STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_, ("utility"), a \_\_\_\_\_ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modify an existing distributed generation facility consistent with the interconnection request application form submitted by interconnection customer on \_\_\_\_\_; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system; and

Whereas, interconnection customer has requested utility to perform an interconnection feasibility study to assess the feasibility of interconnecting the proposed distributed generation facility to utility's electric distribution system;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection feasibility study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection feasibility study shall be based upon the information set forth in the interconnection request application form and Attachment A to this Agreement.
4. The interconnection feasibility study shall be based on the technical information provided by interconnection customer in the interconnection request application form, as modified with the written agreement of the Parties. Utility has the right to request additional technical information from interconnection customer during the course of the interconnection feasibility study. If the interconnection customer modifies its interconnection request, the time to complete the interconnection feasibility study may be extended by the utility.
5. In performing the study, utility shall rely on existing studies of recent vintage to the extent practical. The interconnection customer will not be charged for such existing studies; however, interconnection customer is responsible for the cost of applying any existing study to the interconnection customer specific requirements and for any new study that the utility performs.
6. The interconnection feasibility study report must provide the following information:
  - 6.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection,
  - 6.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection, and
  - 6.3 A description and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to utility's electric distribution system as required under Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11(5)"a").

- 7. Interconnection customer shall provide a study deposit equal to 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
- 8. The interconnection feasibility study shall be completed and the results shall be transmitted to interconnection customer within 45 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later. If the interconnection customer's study request involves more than one point of interconnection and configuration, the time to complete the interconnection feasibility study may be extended by the utility.
- 9. Study fees shall be based on actual costs and will be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice must include an itemized listing of employee time and costs expended on the study.
- 10. Interconnection customer shall pay any actual study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice. Utility shall refund any excess deposit amount without interest within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of utility]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

ATTACHMENT A  
Interconnection Feasibility Study Agreement

Assumptions Used in Conducting the Interconnection Feasibility Study

The interconnection feasibility study will be based upon the information in the interconnection request application form, agreed upon on \_\_\_\_\_:

1. Point of interconnection and configuration to be studied.

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2. Alternative points of interconnection and configurations to be studied.

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Note: 1 and 2 are to be completed by the interconnection customer. Any additional assumptions (explained below) may be provided by either the interconnection customer or the utility.

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**199—45.19(476) Appendix F – Standard interconnection system impact study agreement.**INTERCONNECTION SYSTEM IMPACT STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_, ("utility"), a \_\_\_\_\_ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modifying an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on \_\_\_\_\_; and

Whereas, interconnection customer desires to interconnect the distributed generation facility to utility's electric distribution system; and

Whereas, utility has completed an interconnection feasibility study and provided the results of said study to interconnection customer (this recital to be omitted if the Parties have agreed to forego the interconnection feasibility study); and

Whereas, interconnection customer has requested utility to perform an interconnection system impact study to assess the impact of interconnecting the distributed generation facility to utility's electric distribution system;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection system impact study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection system impact study shall be based upon the information set forth in the interconnection request application form and in Attachment A to this Agreement.
4. The interconnection system impact study shall be based upon the interconnection feasibility study and the technical information provided by interconnection customer in the interconnection request application form. Utility reserves the right to request additional technical information from interconnection customer. If interconnection customer modifies its proposed point of interconnection, interconnection request, or the technical information provided therein is modified, the time to complete the interconnection system impact study may be extended.
5. The interconnection system impact study report shall provide the following information:
  - 5.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection,
  - 5.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection,
  - 5.3 Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection, and

- 5.4 Description and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to utility's electric distribution system and to address the identified short circuit, thermal overload, voltage, and instability issues as required under Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11(5) "b").
- 6. Interconnection customer shall provide a study deposit equal to 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
- 7. The interconnection system impact study, if required, shall be completed and the results transmitted to interconnection customer within 45 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later. If the interconnection customer's study request involves more than one point of interconnection and configuration, the time to complete the interconnection system impact study may be extended by the utility.
- 8. Study fees shall be based on actual costs and shall be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.
- 9. Interconnection customer shall pay any study costs that exceed the deposit within 30 calendar days after receipt of the invoice. Utility shall refund any excess deposit amount within 30 calendar days of the invoice.

In witness thereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of utility]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

ATTACHMENT A  
Interconnection System Impact Study Agreement

Assumptions Used in Conducting the Interconnection System Impact Study

The interconnection system impact study shall be based upon the results of the interconnection feasibility study, subject to any modifications in accordance with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11), and the following assumptions:

1. Point of interconnection and configuration to be studied.

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2. Alternative Points of interconnection and configurations to be studied.

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Note: 1 and 2 are to be completed by the interconnection customer. Any additional assumptions (explained below) may be provided by either the interconnection customer or the utility.

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**199—45.20(476) Appendix G – Standard interconnection facilities study agreement.**INTERCONNECTION FACILITIES STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_, ("utility"), a \_\_\_\_\_ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modifying an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on \_\_\_\_\_; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system; and

Whereas, utility has completed an interconnection system impact study and provided the results of said study to interconnection customer; and

Whereas, interconnection customer has requested utility to perform an interconnection facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to interconnect the distributed generation facility;

Now, therefore, in consideration of and subject to the mutual covenants contained in this Agreement, the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection facilities study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection facilities study shall be determined by the information provided in Attachment A to this Agreement.
4. An interconnection facilities study report (1) shall provide a description, estimated cost of distribution upgrades, and a schedule for required facilities to interconnect the distributed generation facility to utility's electric distribution system; and (2) shall address all issues identified in the interconnection system impact study (or identified in this study if the system impact study is combined herein).
5. Interconnection customer shall provide a study deposit of 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
6. In cases where no distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 15 business days after this Agreement is signed by the Parties. In cases where distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 35 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later.
7. Study fees shall be based on actual costs and will be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.

- 8. Interconnection customer shall pay any actual study costs that exceed the deposit within 30 calendar days on receipt of the invoice. Utility shall refund any excess deposit amount within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of utility]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

ATTACHMENT A  
Interconnection Facilities Study Agreement

Minimum Information that the Interconnection Customer Must Provide with the Interconnection Facilities Study Agreement

Provide location plan and simplified one-line diagram of the distributed generation facilities.

For staged projects, please indicate size and location of planned additional future generation.

On the one-line diagram, indicate the generation capacity attached at each metering location. (Maximum load on CT/PT).

On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT) Amps.

One set of metering is required for each generation connection to the utility's electric distribution system.

Number of generation connections: \_\_\_\_\_

Will an alternate source of auxiliary power be available during CT/PT maintenance?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total distributed generation capacity? Yes \_\_\_\_\_ No \_\_\_\_\_  
(Please indicate on the one-line diagram).

What type of control system or PLC will be located at the distributed generation facility?  
\_\_\_\_\_.

What protocol does the control system or PLC use? \_\_\_\_\_.

Please provide a scale drawing of the site. Indicate the point of interconnection, distribution line, and property lines.

Number of third-party easements required for utility's interconnection facilities: \_\_\_\_\_

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To be Completed in Coordination with the Utility

Is the distributed generation facility located in utility's service area?

Yes \_\_\_\_\_ No \_\_\_\_\_

If No, please provide name of local provider: \_\_\_\_\_

Please provide the following proposed schedule dates:

Begin construction date: \_\_\_\_\_

Generator step-up transformers receive back feed power date: \_\_\_\_\_

Commissioning testing date: \_\_\_\_\_

Witness testing date: \_\_\_\_\_

Commercial operation date: \_\_\_\_\_

[ARC 8859B, IAB 6/16/10, effective 7/21/10]

These rules are intended to implement Iowa Code sections 476.1 and 476.8 and Section 211 of the Public Utilities Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005.

[Filed ARC 8859B (Notice ARC 8201B, IAB 10/7/09), IAB 6/16/10, effective 7/21/10]



# ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

[Created by 1986 Iowa Acts, chapter 1245]  
[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

## PART I *DEPARTMENT STRUCTURE*

### CHAPTER 1 ORGANIZATION

- |         |   |
|---------|---|
| 1.1(15) | Mission                                       |
| 1.2(15) | Definitions                                   |
| 1.3(15) | Iowa department of economic development board |
| 1.4(15) | Department structure                          |
| 1.5(15) | Information                                   |

### CHAPTERS 2 and 3 Reserved

## PART II *WORKFORCE DEVELOPMENT COORDINATION*

### CHAPTER 4 WORKFORCE DEVELOPMENT ACCOUNTABILITY SYSTEM

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

### CHAPTER 5 IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

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

### CHAPTER 6 Reserved

### CHAPTER 7 IOWA JOBS TRAINING PROGRAM

- |           |  |
|-----------|--|
| 7.1(260F) | Authority  |
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DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

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

**261—79.2(15) Definitions.**

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

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

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

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

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

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

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

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

- a. Is located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s), also referred to as disaster-damaged space; and
- b. Has either leased disaster-damaged space for at least 12 months at a market rate or intends to enter or has entered into a minimum one-year, market-rate lease in disaster-damaged space.

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

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

[ARC 7708B, IAB 4/8/09, effective 3/20/09; ARC 8852B, IAB 6/16/10, effective 5/21/10]

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

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

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

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

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

**79.5(1)** *Types of financial assistance available.* An administrative entity shall provide financial assistance to an eligible business in compliance with the terms and conditions described in this rule. An administrative entity may award funds in the form of a forgivable loan to a business that has either leased disaster-damaged space for at least 12 months at a market rate or has entered into a minimum one-year, market-rate lease for disaster-damaged space. A forgivable loan is a loan that will be forgiven if the business remains open for the duration of the six-month period for which rental assistance is awarded.

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

**79.5(3)** *Program termination.* Rescinded IAB 6/16/10, effective 5/21/10.  
[ARC 7708B, IAB 4/8/09, effective 3/20/09; ARC 8852B, IAB 6/16/10, effective 5/21/10]

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

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

These rules are intended to implement Iowa Code section 15.109.

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

[Filed Emergency ARC 8852B, IAB 6/16/10, effective 5/21/10]

CHAPTER 104  
TARGETED INDUSTRIES INTERNSHIP PROGRAM

**261—104.1(15) Authority.** The authority for establishing rules governing the development of the targeted industries internship program is provided in 2007 Iowa Acts, House File 829, section 1(6).  
[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.2(15) Purpose.** The purpose of the targeted industries internship program is to link Iowa students to internship opportunities in small and medium-sized firms in the biosciences, advanced manufacturing and information technology industries and to convert interns into prospective employees.  
[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.3(15) Definitions.**

“*Board*” means the Iowa economic development board established in Iowa Code section 15.103.

“*Committee*” means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

“*Community college*” means a community college established under Iowa Code chapter 260C.

“*Department*” means the Iowa department of economic development.

“*Internship*” means temporary employment of a student that focuses on providing the student with work experience in the student’s field of study.

“*Prospective employee*” means a student who is anticipated to be hired upon graduation.

“*Student*” means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or a student who graduated from high school in Iowa but attends an institution of higher learning outside the state of Iowa.

“*Targeted industry*” means the industries of advanced manufacturing, biosciences, and information technology.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.4(15) Program funding.**

**104.4(1)** The maximum award shall not exceed \$3,100 for any single internship or \$9,300 for any single business.

**104.4(2)** Funds shall only be used for reimbursement of wages during the designated internship period. Students hired as interns shall be paid at least twice the minimum wage.

**104.4(3)** The department shall issue funds to a business based upon department approval of a completed application and the execution of a contract between the business and the department.

**104.4(4)** A business may receive financial assistance in an amount of one dollar for every two dollars paid by the business to the intern.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.5(15) Eligible business.** The targeted industries internship program is available to Iowa businesses that meet all of the following criteria:

**104.5(1)** An applicant must be an Iowa-based business with fewer than 500 employees, with a significant portion employed within the state of Iowa.

**104.5(2)** An applicant must be engaged in one of the targeted industries of biosciences, advanced manufacturing or information technology.

**104.5(3)** An applicant must offer the internship to students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or to students who graduated from high school in Iowa but attend an institution of higher learning outside the state of Iowa.

**104.5(4)** An applicant’s summer internships must last a minimum of 8 weeks (averaging no less than 30 hours per week), and an applicant’s semester internships must last a minimum of 14 weeks (averaging no less than 10 hours per week).

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.6(15) Ineligible business.** The following businesses are not eligible for this program:

**104.6(1)** A business which is engaged in retail sales or which provides health services is ineligible.

**104.6(2)** A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.  
[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.7(15) Eligible students.** Students must be within one to two years of graduation and enrolled at one of Iowa's community colleges, private colleges, or institutions of higher learning under the control of the state board of regents. A student as defined in this chapter is eligible for an internship under this rule. The department shall encourage youth who reside in economically distressed areas, youth adjudicated to have committed a delinquent act, and youth transitioning out of foster care to participate in the targeted industries internship program.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.8(15) Ineligible students.** Students who are more than two years from graduation are ineligible. Students who are immediate family members of management employees or board members of the applicant business are ineligible. Students who do not otherwise meet the eligibility requirements described in rule 261—104.7(15) are not eligible.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.9(15) Application submittal and review process.**

**104.9(1)** The department shall develop a standardized application and make the application available to eligible businesses. To apply for moneys from the program, a business shall submit an application to the department. Applications must be submitted to the Iowa Department of Economic Development, Innovation and Commercialization Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

**104.9(2)** The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance for this program. The board may approve, defer or deny an application.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.10(15) Application content and other requirements.**

**104.10(1)** Applicants must complete an application for internship assistance and submit it to the department. Successful applicants must enter into a contract with the department prior to posting or advertising the internship.

**104.10(2)** If an award is made, the business shall secure an intern within the time period stated in the contract between IDED and the business.

**104.10(3)** The application shall include, but not be limited to, all of the following:

*a.* The dates and location of the internship.

*b.* A statement of duties the intern will be performing at the business site. The intern is to be involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. The application shall also include information regarding the intern's work space (i.e., access to telephone, computer, and other necessary items).

*c.* The name of the business's representative who will train and supervise the intern.

*d.* A statement of the anticipated workforce needs at the business, which shall include an explanation of the current workforce shortage and identify the intern's potential for prospective employment with the business following graduation.

**104.10(4)** The department reserves the right to require additional information from the business.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.11(15) Selection process.** Applications will be reviewed in the order received by the department. The board may approve, defer or deny each application for financial assistance, based on the availability of funds. The department and the committee will score applications according to the criteria specified in rule 261—104.12(15). To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.12(15) Application scoring criteria.** When applications for financial assistance are reviewed, the following criteria shall be considered:

**104.12(1)** The intern is involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. 25 points.

**104.12(2)** The explanation of the applicant's anticipated workforce needs and of the intern's potential for prospective employment with the business following graduation. 20 points.

**104.12(3)** The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the business's goals or processes. 10 points.

**104.12(4)** The internship will have a positive impact on the intern's skills, knowledge and abilities. 15 points.

**104.12(5)** The internship pays more than twice the minimum wage. 10 points.

**104.12(6)** The business's contribution to the internship program is above the minimum program match requirement. 10 points.

**104.12(7)** Intern applications will be accepted from more than one private college, university or community college. 5 points.

**104.12(8)** The application documents that all considerations, including funding required to begin the internship, have been addressed. 5 points.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

**261—104.13(15) Contract and reporting.**

**104.13(1) Notice of award.** Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

**104.13(2) Contract required.** The department shall prepare a contract, which includes, but is not limited to, a description of the internship to be completed; conditions to disbursement; required reports; and the repayment requirements imposed in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on an individual basis.

**104.13(3) Reporting.** An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

[ARC 8848B, IAB 6/16/10, effective 5/20/10]

These rules are intended to implement 2009 Iowa Code Supplement section 15.411 as amended by 2010 Iowa Acts, Senate File 2076.

[Filed 9/20/07, Notice 8/15/07—published 10/10/07, effective 11/14/07]

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[Filed 2/22/08, Notice 12/19/07—published 3/12/08, effective 4/16/08]

[Filed Emergency ARC 8848B, IAB 6/16/10, effective 5/20/10]



CHAPTER 114  
IOWA INNOVATION COUNCIL

**261—114.1(15) Authority.** The authority for establishing rules governing the Iowa innovation council under this chapter is provided in 2010 Iowa Acts, House File 2076, section 4.  
[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.2(15) Purpose.** The purpose of the Iowa innovation council is to advise the department on the development and implementation of public policies that enhance innovation and entrepreneurship in the targeted industries.  
[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.3(15) Definitions.**

“*Board*” means the Iowa economic development board established in Iowa Code section 15.103.

“*Chief technology officer*” means the person appointed pursuant to Iowa Code section 15.117 as amended by 2010 Iowa Acts, House File 2076.

“*Committee*” means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

“*Department*” means the Iowa department of economic development.

“*Director*” means the director of the department or the director’s designee.

“*Targeted industry*” means the industries of advanced manufacturing, bioscience, and information technology.

“*Vice chairperson*” means the voting member elected to serve as the council vice chairperson for a one-year term.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.4(15) Iowa innovation council funding.** The department shall provide assistance to the council with staff and administrative support. The department may expend moneys allocated to the innovation and commercialization fund in order to provide such support. The council shall not have the authority to expend moneys or resources or to execute contracts. The department may accept grant funds on behalf of the council, but the council shall not provide any form of financial assistance awards. Authority for and approval of all financial expenditures and contracts for the council shall be granted solely by the director on behalf of the department.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.5(15) Executive committee.** In order to effectively carry out the responsibilities of the council, an executive committee within the council will be formed.

**114.5(1) Membership.** The executive committee shall include the chief technology officer, vice chairperson of the council, director of the department, and four members of the council selected by the board who also serve on the technology commercialization committee in order to:

*a.* Solicit individuals to become council members, review potential nominees and application materials, review vacancies and resignations, and recommend individuals to the board;

*b.* Nominate one of the voting members to serve as vice chairperson;

*c.* Approve the formation of work groups, approve work group members and leaders, review activities of the work groups, and report to the council to ensure the coordination of activity of work groups;

*d.* Record the official proceedings for the council;

*e.* Act on behalf of the council between council meetings;

*f.* Issue reports on behalf of the council;

*g.* Serve as a sounding board for the chief technology officer in the overall management of the business of the council; and

*h.* Review potential conflicts of interest on the part of any member of the council.

**114.5(2) Quorum.** A majority of the members of the executive committee constitutes a quorum. A majority vote of the quorum is required to approve actions of the executive committee.  
[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.6(15) Council member selection.** The council shall consist of 29 voting members as follows:

**114.6(1)** Twenty members will be selected by the board to serve staggered, two-year terms beginning and ending as provided in Iowa Code section 69.19. Members to be selected will include the following representatives:

- a. Seven shall be representatives from businesses in the targeted industries;
- b. Thirteen shall be individuals who serve on the technology commercialization committee, or other committees of the board, and who have expertise with the targeted industries; and
- c. Ten of the members selected shall be executives actively engaged in the management of a business in a targeted industry.

**114.6(2)** Nine members will be appointed by the board and will include the following representatives:

- a. One member, selected by the governor, who also serves on the Iowa capital investment board created in Iowa Code section 15E.63.
- b. The director of the department, or the director's designee.
- c. The chief technology officer appointed pursuant to Iowa Code section 15.117 as amended by 2010 Iowa Acts, House File 2076.
- d. The person designated as the chief information officer pursuant to Iowa Code section 8A.104, subsection 12, or, if no person has been so designated, the director of the department of administrative services, or the director's designee.
- e. The president of the state university of Iowa, or the president's designee.
- f. The president of Iowa state university of science and technology, or the president's designee.
- g. The president of the university of northern Iowa, or the president's designee.
- h. Two community college presidents from geographically diverse areas of the state, selected by the Iowa association of community college trustees.
- i. To be eligible to serve as a designee, a person must have sufficient authority to make decisions on behalf of the organization being represented. A person named as a designee shall not name a designee nor permit a substitute to attend council meetings.

**114.6(3)** Four members of the general assembly will be appointed by the board serving two-year terms in a nonvoting, ex-officio capacity, with two from the senate and two from the house of representatives and not more than one member from each chamber being from the same political party. The two senators shall be designated one member each by the president of the senate after consultation with the majority leader of the senate, and by the minority leader of the senate. The two representatives shall be designated one member each by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.7(15) Member application and review process.** The executive committee will review all council nominees and application materials and recommend the voting members to the board who they believe will add value to and further the purposes of the council.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.8(15) Voting.** A majority of the members of the council constitutes a quorum. A majority vote of the quorum is required to approve actions of the council and make recommendations, as those recommendations relate to financial expenditures and contract executions.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.9(15) Meetings and commitment of time.** The chief technology officer is expected to convene four regular meetings of the council, within any period of 12 calendar months beginning on

July 1 or January 1, according to a published schedule. The annual meeting of the council will be convened in January at a convenient location in Des Moines. The chief technology officer shall be the chairperson of the council and shall be responsible for convening meetings of the council. The chief technology officer shall not convene a meeting of the council unless the director of the department, or the director's designee, is present at the meeting.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.10(15) Nonattendance.**

**114.10(1)** Any member serving on the council shall be deemed to have submitted a resignation to the council if either of the following events occurs.

- a. The member does not attend two or more consecutive regular meetings of the council.
- b. The member attends less than one-half of the regular council meetings within any period of 12 calendar months beginning on July 1 or January 1.

**114.10(2)** The requirements of this rule shall supersede the attendance requirements described in Iowa Code section 69.15 only to the extent that statutory construction pursuant to Iowa Code chapter 4 allows.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.11(15) Responsibilities and deliverables.**

**114.11(1)** The purpose of the council is to advise the department on the development and implementation of public policies that enhance innovation and entrepreneurship in the targeted industries. Such advice may include evaluating Iowa's competitive position in the global economy, reviewing the technology typically utilized in the state's manufacturing sector, assessing the state's overall scientific research capacity, keeping abreast of the latest scientific research and technological breakthroughs and offering guidance as to their impact on public policy, recommending strategies that foster innovation, increase new business formation, and otherwise promote economic growth in the targeted industries, and offering guidance about future developments in the targeted industries.

**114.11(2)** The council will do the following:

- a. Prepare a report of the expenditures of moneys appropriated and allocated to the department for certain programs authorized pursuant to 2009 Iowa Code Supplement sections 15.411 as amended by 2010 Iowa Acts, House File 2076, and 15.412 relating to the development and commercialization of businesses in the targeted industries.
- b. Prepare a summary of the activities of the technology commercialization committee and the Iowa innovation council.
- c. Create a comprehensive strategic plan for implementing specific strategies that foster innovation, increase new business formation, and promote economic growth.
- d. Review existing programs that relate to the targeted industries and suggest changes to improve efficiency and effectiveness.
- e. Conduct industry research and prepare reports for the general assembly, the governor, the department, and other policy-making bodies within state government.
- f. Act as a forum where issues affecting the research community, the targeted industries, and policy makers can be discussed and addressed.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.12(15) Council work groups.**

**114.12(1)** The council will establish work groups, both standing and temporary, to assist in the execution of responsibilities of the council and to expand the intellectual capacity of the council. Work groups will be directed by a work group leader. Work groups will encourage diversity of talent, the size and geographic location of businesses in the targeted industries, and invite a wider assembly of corporate and university executives, scientists, financial executives, venture investors, and experienced entrepreneurs from across the state.

**114.12(2)** To be eligible to serve as a work group leader, a nominee must be one of the eligible voting members of the council. The executive committee will review and approve the formation of proposed

work groups and approve proposed work group members and leaders. The chief technology officer and vice chairperson shall serve as ex-officio members of all work groups established by the council.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

**261—114.13(15) Reporting.** The executive committee shall review, comment, and formally submit any and all reports on behalf of the council. The chief technology officer is designated by the board as the signing officer for certain documents. In this capacity, the chief technology officer is authorized to sign correspondence, applications, reports, or other nonfinancial documents produced by the council. The chief technology officer shall serve as a key spokesperson for the council and be responsible for coordinating the communication of information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2010 Iowa Acts, House File 2076, section 2, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

[ARC 8850B, IAB 6/16/10, effective 7/1/10]

These rules are intended to implement 2010 Iowa Acts, House File 2076.

[Filed Emergency ARC 8850B, IAB 6/16/10, effective 7/1/10]

CHAPTERS 115 to 130  
Reserved

CHAPTER 131  
[Prior to 9/6/00, see 261—Ch 67]  
Rescinded IAB 7/9/03, effective 8/13/03

CHAPTER 132  
IOWA EXPORT TRADE ASSISTANCE PROGRAM  
[Prior to 11/15/89, see 261—Ch 56]  
[Prior to 7/19/95, see 261—Ch 61]  
[Prior to 9/6/00, see 261—Ch 68]  
[Renumbered IAB 7/4/07; see 261—Ch 72]

CHAPTERS 133 to 162  
Reserved



CHAPTER 86  
HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program. The purpose of this program is to provide transitional health and dental care coverage to uninsured children who are ineligible for Title XIX (Medicaid) assistance. The program is implemented and administered in compliance with Title XXI of the federal Social Security Act. The rules establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees.

**441—86.1(514I) Definitions.**

*“Applicant”* shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size and who are listed on the application or renewal form.

*“Benchmark benefit package for health care coverage”* shall mean any of the following:

1. The standard Blue Cross Blue Shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. Section 8903(1).

2. A health benefits coverage plan that is offered and generally available to state employees in this state.

3. The plan of a health maintenance organization, as defined in 42 U.S.C. Section 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

*“Capitation rate”* shall mean the fee the department pays monthly to a participating health or dental plan for each enrollee for the provision of covered medical or dental services whether or not the enrollee received services during the month for which the fee is intended.

*“Contract”* shall mean the contract between the department and the person or entity selected as the third-party administrator or the contract between the department and the participating health or dental plan for the provision of medical or dental services to HAWK-I enrollees for whom the participating health or dental plans assume risk.

*“Cost sharing”* shall mean the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and Iowa Code section 514I.10.

*“Covered services”* shall mean all or a part of those medical and dental services set forth in rule 441—86.14(514I).

*“Dentist”* shall mean a person who is licensed to practice dentistry.

*“Department”* shall mean the Iowa department of human services.

*“Director”* shall mean the director of the Iowa department of human services.

*“Earned income”* means the earned income of all parents, spouses, and children under the age of 19 who are not students who are living together in accordance with subrule 86.2(3). Income shall be countable earned income when a person produces it as a result of the performance of services. “Earned income” includes:

1. All income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, and

2. The net profit from self-employment determined by comparing gross income produced from self-employment with the allowable costs of producing the income. The allowable costs of producing self-employment income shall be determined by the costs allowed for income tax purposes. Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. Losses from a self-employment enterprise may not be used to offset income from any other source.

*“Eligible child”* shall mean an individual who meets the criteria for participation in the HAWK-I program as set forth in rule 441—86.2(514I).

*“Emergency dental condition”* shall mean an oral condition that occurs suddenly and creates an urgent need for professional consultation or treatment. Emergency conditions may include hemorrhage, infection, pain, broken teeth, knocked-out teeth, or other trauma.

*“Emergency medical condition”* shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

*“Emergency services”* shall mean, with respect to an individual enrolled with a plan, covered inpatient and outpatient services which are furnished by a provider qualified to furnish these services and which are needed to evaluate and stabilize an emergency medical or dental condition.

*“Enrollee”* shall mean a child who has been determined eligible for the program and who has been enrolled with a participating health plan.

*“Family”* shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size.

*“Federal poverty level”* shall mean the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

*“Good cause”* shall mean the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee’s family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. There was a reason beyond the enrollee’s control.
4. There was a failure to receive the third-party administrator’s request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

*“Gross countable income”* means gross income minus exemptions permitted by paragraph 86.2(2)“b.”

*“Gross income”* means a combination of the following:

1. Earned income,
2. Unearned income, and
3. Recurring lump-sum income prorated over the time the income is intended to cover.

*“HAWK-I board”* or *“board”* shall mean the entity that adopts rules, establishes policy, and directs the department regarding the HAWK-I program.

*“HAWK-I program”* or *“program”* shall mean the healthy and well kids in Iowa program implemented in this chapter to provide health and dental care coverage to eligible children.

*“Health insurance coverage”* shall mean health insurance coverage as defined in 45 CFR Section 144.103, as amended to October 1, 2008.

*“Institution for mental diseases”* shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

*“Nonmedical public institution”* shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1009 as amended November 10, 1994.

*“Participating dental plan”* shall mean any entity licensed by the division of insurance of the department of commerce to provide dental insurance in Iowa that has contracted with the department to provide dental insurance coverage to eligible children under this chapter.

*“Participating health plan”* shall mean any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

*“Physician”* shall be defined as provided in Iowa Code subsection 135.1(4).

“*Provider*” shall mean an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical or dental care or services to an enrollee pursuant to the HAWK-I program.

“*Recurring lump-sum income*” means earned and unearned lump-sum income that is received on a regular basis. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

“*Regions*” shall mean the six regions of the state as follows:

- Region 1: Lyon, Osceola, Dickinson, Emmet, Sioux, O’Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, Sac, Monona, Crawford, and Carroll.

- Region 2: Kossuth, Winnebago, Worth, Mitchell, Howard, Hancock, Cerro Gordo, Floyd, Pocahontas, Humboldt, Wright, Franklin, Calhoun, Webster, Hamilton, Hardin, Greene, Boone, Story, Marshall, and Tama.

- Region 3: Winneshiek, Allamakee, Chickasaw, Fayette, Clayton, Butler, Bremer, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Jones, Jackson, Cedar, Clinton, and Scott.

- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.

- Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

- Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.

“*Self-employed*” means that a person satisfies any of the following conditions:

1. The person is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
2. The person establishes the person’s own working hours, territory, and methods of work; or
3. The person files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

“*Third-party administrator*” shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

“*Unearned income*” means cash income of all parents, spouses, and children under the age of 19 who are living together in accordance with subrule 86.2(3) that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes) and any reasonable income-producing costs. Examples of unearned income include, but are not limited to:

1. Social security benefits, meaning the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

[ARC 7770B, IAB 5/20/09, effective 7/1/09; ARC 8478B, IAB 1/13/10, effective 3/1/10; ARC 8580B, IAB 3/10/10, effective 3/1/10]

**441—86.2(514I) Eligibility factors.** The decision with respect to eligibility shall be based primarily on information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the HAWK-I program.

**86.2(1) Age.** The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child’s nineteenth birthday.

**86.2(2) Income.**

*a. Gross countable income.* In determining initial and ongoing eligibility for the HAWK-I program, gross countable income shall not exceed 300 percent of the federal poverty level for a family of the same size.

*b. Exempt income.* The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

(1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:

1. An inheritance.
2. A one-time bonus.
3. Lump sum lottery winnings.
4. Other one-time payments.

(2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

(3) The value of benefits issued in the Food Assistance Program.

(4) The value of the United States Department of Agriculture donated foods (surplus commodities).

(5) The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

(6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

(7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

(8) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

(9) Interest and dividend income.

(10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

(11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

(12) Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

(13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

(14) Experimental housing allowance program payments.

(15) The income of a Supplemental Security Income (SSI) recipient.

(16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3)“c.”

(17) Income in kind.

(18) Family support subsidy program payments.

(19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.

(20) Bona fide loans.

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

(22) Payment for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.

(23) Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383 entitled Wartime Relocation of Civilians.

(24) Payments received from the Radiation Exposure Compensation Act.

(25) Reimbursements from a third party or from an employer for job-related expenses.

(26) Payments received for providing foster care when the family is operating a licensed foster home.

(27) Any payments received as a result of an urban renewal or low-cost housing project from any governmental agency.

(28) Retroactive corrective payments.

(29) The training allowance issued by the division of vocational rehabilitation, department of education.

(30) Payments from the PROMISE JOBS program.

(31) The training allowance issued by the department for the blind.

(32) Payments from passengers in a car pool.

(33) Compensation in lieu of wages received by a child under the Job Training Partnership Act of 1982.

(34) Any amount for training expenses included in a payment issued under the Job Training Partnership Act of 1982.

(35) Earnings of a child under the age of 19 who is a full-time student as defined at 441—75.54(1) “b”(1) and (2).

(36) Incentive payments received from participation in the adolescent pregnancy prevention programs.

(37) Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complementary assistance by federal regulations.

(38) Incentive allowance payments received from the work force investment project, provided the payments are considered complementary assistance by federal regulation.

(39) Honorarium income and all moneys paid to an eligible family in connection with the welfare reform longitudinal study.

(40) Family investment program (FIP) benefits.

(41) Moneys received through pilot self-sufficiency grants or diversion programs.

(42) Income that has ended as of the date of application.

(43) Any income restricted by law or regulation that is paid to a representative payee living outside the home, other than to a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

(44) A federal or state earned income tax credit, regardless of whether the payment is received with the regular paycheck or as a lump sum with the federal or state income tax refund.

(45) All earnings received by temporary workers from the U.S. Bureau of the Census.

*c. Verification of income.* Income shall be verified using the best information available. For example, earnings from the 30 days before the date of application may be used to verify earned income if it is representative of the income expected in future months.

(1) Pay stubs, tip records, tax records and employers’ statements are acceptable forms of verification of earned income.

(2) Unearned income shall be verified through data matches when possible, award letters, warrant copies, or other acceptable means of verification.

(3) Self-employment income shall be verified using business records or income tax returns from the previous year if they are representative of anticipated earnings.

(4) When a child who has been determined ineligible for Medicaid is referred to the HAWK-I program, the third-party administrator shall use the income amount used by the Medicaid program unless rules in this chapter require the income to be treated differently.

*d. Changes in income.* Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child’s eligibility to participate in the HAWK-I program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(514I).

**86.2(3) Family size.** For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall consist of all persons living together who are children under the age of 19 or who are parents of those children as defined below.

EXCEPTION: Persons who are receiving Supplemental Security Income (SSI) under Title XVI of the Social Security Act or who are voluntarily excluded in accordance with the provisions of paragraph “c” below are not considered in determining family size.

*a. Children.* A child under the age of 19 and any siblings under the age of 19 of whole or half blood or adoptive shall be considered together unless the child is emancipated due to marriage, in which case, the emancipated child is not included in the family size unless the marriage has been annulled. Emancipated children, their spouses, and children who live with parents or siblings of the emancipated child shall be considered as a separate family when establishing eligibility for the HAWK-I program.

*b. Parents.* Any parent living with the child under the age of 19 shall be included in the family size. This includes the biological parent, stepparent, or adoptive parent of the child and is not dependent upon whether the parents are married to each other. In situations where the parents do not live together but share joint physical custody of the children, the family size shall be based on the household in which the child spends the majority of time. If both parents share physical custody equally, either parent may apply on behalf of the child and the family size shall be based on the household of the applying parent.

*c. Persons who may be excluded when determining family size.* If including a child in the family size causes siblings to be ineligible, the family may choose not to count the child in the family size. However, this rule shall not apply when the child is receiving Supplemental Security Income (SSI) benefits because SSI recipients are not counted in determining family size for the purposes of HAWK-I eligibility.

*d. Temporary absence from the home.* The following policies shall be applied to any person who would be counted in the family size in accordance with paragraphs "a" and "b" who is temporarily absent from the home.

(1) When a person is absent from the home to secure education or training (e.g., the person is attending college), the person shall be included when establishing the size of the family at home and, if otherwise eligible, shall be covered under the program.

(2) When a person is absent from the home to secure medical care, the person shall be included when establishing the size of the family at home and, if otherwise eligible, shall be covered under the program when the reason for the absence is expected to last less than 12 months.

(3) When a person is absent from the home because the person is an inmate in a nonmedical public institution (e.g., a penal institution) in accordance with the provisions of subrule 86.2(9), the person shall be included when establishing the size of the family at home if the absence is expected to be less than three months. However, when the person is a child under the age of 19, coverage under the program shall not be provided pursuant to subrule 86.2(10) until the child returns to the home.

(4) When a child is absent from the home because the child is in foster care, the child shall not be included when establishing the size of the family at home.

(5) When a child is absent from the home for a vacation or a visit to an absent parent, for example, the child shall be included in establishing the size of the family at home and, if otherwise eligible, shall be covered under the program if the absence is expected to be less than three months.

**86.2(4) Uninsured status.** The child must be uninsured.

*a.* A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan shall not be considered insured for purposes of the HAWK-I program if:

(1) The plan provides coverage only for a specific disease or service (such as a vision, dental, or cancer policy), or

(2) The child does not have reasonable geographic access to care under that plan. "Reasonable geographic access" means that the plan or an option available under the plan does not have service area limitations or, if the plan has service area limitations, the child lives within 30 miles or 30 minutes of a network primary care provider.

*b.* A child whose health insurance ends in the month of application shall be considered uninsured for purposes of HAWK-I eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2) "c."

*c.* American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the HAWK-I program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

**86.2(5) *Ineligibility for Medicaid.*** The child shall not be receiving Medicaid or eligible to receive Medicaid if application were made except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

*a.* A child who would be eligible for Medicaid except for the parent's failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program.

*b.* Children who are excluded from the Medicaid household due to the income or resources of the child may participate in the HAWK-I program if otherwise eligible.

**86.2(6) *Iowa residency.*** The child shall be a resident of the state of Iowa. A resident of Iowa is a person:

*a.* Who is living in Iowa voluntarily with the intention of making that person's home in Iowa and not for a temporary purpose; or

*b.* Who, at the time of application, is not receiving assistance from another state and entered Iowa with a job commitment or to seek employment or who is living with parents or guardians who entered Iowa with a job commitment or to seek employment.

**86.2(7) *Citizenship and alien status.*** The child shall be a citizen or lawfully admitted alien. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program.

*a.* The citizenship or alien status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

*b.* As a condition of eligibility for HAWK-I:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration. EXCEPTION: Applicants applying pursuant to subrule 86.3(6) shall instead complete and sign Form 470-2549, Statement of Citizenship Status.

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or alien status and for providing any required proof of the status.

*c.* Except as provided in 441—paragraph 75.11(2)“*f*,” applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7)“*b*” shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2)“*d*,” “*e*,” “*g*,” and “*h*.”

*d.* An applicant or enrollee shall have a reasonable period to obtain and provide proof of citizenship and nationality. For the purposes of this requirement, the “reasonable period” begins on the date a written request to obtain and provide proof is issued to an applicant or enrollee and continues to the date the proof is provided or to the ninetieth calendar day from the date the written request was issued.

*e.* Eligibility for HAWK-I shall be approved for applicants for one reasonable period as described in paragraph 86.2(7)“*d*.”

(1) The reasonable period shall begin no earlier than the first day of the month following the month in which a valid application is received and shall continue until the end of the month in which the ninetieth day occurs or until acceptable documentary evidence is provided, whichever is earlier. However, coverage may be canceled before the end of the reasonable period when another eligibility requirement is not met.

(2) For the purposes of HAWK-I eligibility, an applicant who received coverage during a reasonable period as a Medicaid applicant shall not be granted coverage pursuant to this paragraph for a second reasonable period.

*f.* Failure to provide acceptable documentary evidence by the ninetieth calendar day from the date the written request was issued pursuant to paragraph 86.2(7)“*d*” shall be the basis for cancellation of coverage under HAWK-I for the child.

*g.* Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

**86.2(8) *Dependents of state of Iowa employees.*** The child shall not be eligible for the HAWK-I program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee

unless the state contributes only a nominal amount toward the cost of dependent coverage. “Nominal amount” shall mean \$10 or less per month.

**86.2(9) *Inmates of nonmedical public institutions.*** The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

**86.2(10) *Inmates of institutions for mental disease.*** At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

**86.2(11) *Preexisting conditions.*** The child shall not be denied eligibility based on the presence of a preexisting medical or dental condition.

**86.2(12) *Furnishing a social security number.***

*a.* As a condition of eligibility, a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under HAWK-I is being requested or received.

(1) When proof of application for a social security number has been provided, the number must be reported upon receipt.

(2) The requirement to provide a social security number does not apply if the person refuses to obtain a social security number because of well-established religious objections. The term “well-established religious objections” means that the person is a member of a recognized religious sect or a division of a recognized religious sect and adheres to the tenets or teachings of the sect or division, and for that reason is conscientiously opposed to applying for or using a national identification number.

*b.* Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of a social security number when the applicant or enrollee is cooperating in providing information necessary for issuance of the number.

*c.* The mother of a newborn child shall have until the second month following the mother’s discharge from the hospital to apply for a social security number for the child.

*d.* A social security number may be requested for a person in the family for whom coverage under HAWK-I is not being requested or received, but provision of the number shall not be a condition of eligibility for the applicant or enrollee.

[ARC 7770B, IAB 5/20/09, effective 7/1/09; ARC 7881B, IAB 7/1/09, effective 7/1/09; ARC 8109B, IAB 9/9/09, effective 10/14/09; ARC 8127B, IAB 9/9/09, effective 9/1/09; ARC 8280B, IAB 11/18/09, effective 1/1/10; ARC 8281B, IAB 11/18/09, effective 12/23/09; ARC 8478B, IAB 1/13/10, effective 3/1/10; ARC 8838B, IAB 6/16/10, effective 6/1/10]

#### **441—86.3(514I) Application process.**

**86.3(1) *Who may apply.*** Each person wishing to do so shall have the opportunity to apply without delay. When the request is made in person, the requester shall immediately be given an application form. When a request is made that the application form be mailed, it shall be sent in the next outgoing mail.

*a. Child lives with parents.* When the child lives with the child’s parents, including stepparents and adoptive parents, the parent shall file the application on behalf of the child unless the parent is unable to do so.

If the parent is unable to act on the child’s behalf because the parent is incompetent or physically disabled, another person may file the application on behalf of the child. The responsible person shall be a family member, friend or other person who has knowledge of the family’s financial affairs and circumstances and a personal interest in the child’s welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall sign the application form and assume the responsibilities of the incompetent or disabled parent in regard to the application process and ongoing eligibility determinations.

*b. Child lives with someone other than a parent.* When the child lives with someone other than a parent (e.g., another relative, friend, guardian), the person who has assumed responsibility for the care of the child may apply on the child’s behalf. This person shall sign the application form and assume responsibility for providing all information necessary to establish initial and ongoing eligibility for the child.

*c. Child lives independently or is married.* When a child under the age of 19 lives in an independent living situation or is married, the child may apply on the child’s own behalf, in which case,

the child shall be responsible for providing all information necessary to establish initial and ongoing eligibility. If the child is married, both the child and the spouse shall sign the application form.

**86.3(2) Application form.** An application for the HAWK-I program shall be submitted on Comm. 156, HAWK-I Application, or on Form 470-4016, HAWK-I Electronic Application Summary and Signature, unless the family applies for the Medicaid program first.

*a.* When an application has been filed for the Medicaid program in accordance with the provisions of rule 441—76.1(249A) and Medicaid eligibility does not exist in accordance with the provisions of rule 441—75.1(249A), or the family must meet a spenddown in accordance with the provisions of 441—subrule 75.1(35) before the child can attain eligibility, the Medicaid application shall be used to establish eligibility for the HAWK-I program in lieu of the HAWK-I Application, Comm. 156, or Form 470-4016, HAWK-I Electronic Application Summary and Signature.

*b.* Applications may be obtained by telephoning the toll-free telephone number of the third-party administrator or by accessing the Web site at [www.hawk-i.org](http://www.hawk-i.org).

**86.3(3) Place of filing.** An application for the HAWK-I program shall be filed with the third-party administrator responsible for making the eligibility determination. Any local or area office of the department of human services, disproportionate share hospital, federally qualified health center, other facilities in which outstationing activities are provided, school nurse, Head Start, maternal and child health center, WIC office, or other entity may accept the application. However, all applications shall be forwarded to the third-party administrator.

**86.3(4) Date and method of filing.** The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.

*a. Medicaid applications referred to the HAWK-I program.* When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

*b. Electronic applications.* When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature.

**86.3(5) Right to withdraw application.** After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application shall be documented, and the applicant shall be sent a notice of decision confirming the request.

**86.3(6) Application not required.**

*a.* An application shall not be required when a child becomes ineligible for Medicaid and the local office of the department makes a referral to the HAWK-I program.

(1) A referral to the HAWK-I program pursuant to subrule 86.4(3) or 86.4(4) shall be accepted in lieu of an application.

(2) The original Medicaid application or the last review form that is on file in the local office of the department, whichever is more current, shall suffice to meet the signature requirements.

*b.* A new application shall not be required when an eligible child is added to an existing HAWK-I eligible group.

**86.3(7) Information and verification procedure.** The decision with respect to eligibility shall be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee.

*a.* The third-party administrator shall notify the applicant, enrollee, or person acting on behalf of the applicant or enrollee in writing of additional information or verification that is required to establish eligibility. The third-party administrator shall provide this notice personally, by mail, or by facsimile.

*b.* Failure to supply the information or verification or refusal to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been

provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall have ten working days to supply the information or verification requested by the third-party administrator. The third-party administrator may extend the deadline for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

**86.3(8) *Time limit for decision.*** The third-party administrator shall make a decision regarding the applicant's eligibility to participate in the HAWK-I program within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed within the period for a reason that is beyond the control of the third-party administrator.

a. EXCEPTION: When the application is referred for a Medicaid eligibility determination and Medicaid eligibility is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date the administrator receives the notice of Medicaid denial unless additional verification is needed.

b. "Day one" of the ten-day period shall mean the first working day following the date of receipt of a completed application and all necessary information and verification.

**86.3(9) *Applicant cooperation.*** An applicant must cooperate with the third-party administrator in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

**86.3(10) *Waiting lists.*** When the department has established that all of the funds appropriated for this program are obligated, the third-party administrator shall deny all subsequent applications for HAWK-I coverage unless Medicaid eligibility exists.

a. The third-party administrator shall mail a notice of decision. The notice shall state that:

- (1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or
- (2) The person does not meet eligibility requirements. In which case, the applicant shall not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, the third-party administrator shall refer the application to the Medicaid program for an eligibility determination. If Medicaid eligibility exists, the department shall approve the child for Medicaid coverage in accordance with 441—86.4(514I).

c. The third-party administrator shall enter applicants on the waiting list on the basis of the date an identifiable application form specified in subrule 86.3(2) is date-stamped by the third-party administrator. An identifiable application is an application containing a legible name, address, and signature.

(1) In the event that more than one application is received on the same day, the third-party administrator shall enter applicants on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) The third-party administrator shall decide any subsequent ties by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, the third-party administrator shall select applicants from the waiting list based on the order in which their names appear on the list and shall notify them of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, the third-party administrator shall delete the applicant's name from the waiting list and shall contact the next applicant on the waiting list.

**86.3(11) *Falsification of information.*** Rescinded IAB 11/19/08, effective 1/1/09.

**86.3(12) *Applications pended due to unavailability of a plan.*** When there is no participating health plan in the applicant's county of residence, the application shall be held until a plan is available. The

application shall be processed when a plan becomes available and coverage shall be effective the first day of the month the plan becomes available.

[ARC 8580B, IAB 3/10/10, effective 3/1/10]

**441—86.4(514I) Coordination with Medicaid.**

**86.4(1)** *HAWK-I applicant appears eligible for Medicaid.* At the time of initial application, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made by the third-party administrator to the department for a determination of Medicaid eligibility as follows:

a. The original Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016, HAWK-I Electronic Application Summary and Signature Page, and copies of any accompanying information and verification shall be forwarded to the department within 24 hours, or the next working day, whichever is sooner. The third-party administrator shall maintain a copy of all documentation sent to the department and a log to track the disposition of all referrals.

b. The third-party administrator shall notify the family that the referral has been made. The third-party administrator shall return to the family any original verification and information that was submitted with the application and retain a copy in the file record.

c. The referral shall be considered an application for Medicaid in accordance with the provisions of rule 441—76.1(249A). The time limit for processing the referred application begins with the date the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016, HAWK-I Electronic Application Summary and Signature Page, is date-stamped as being received by the third-party administrator.

**86.4(2)** *HAWK-I enrollee appears eligible for Medicaid.* At the time of the annual review, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the third-party administrator shall make a referral to the department for a determination of Medicaid eligibility as stated in subrule 86.4(1) above. However, the child shall remain eligible for the HAWK-I program pending the Medicaid eligibility determination unless the 12-month certification period expires first.

**86.4(3)** *Medicaid applicant not eligible.* If a child is not eligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of 441—75.59(249A) and meets the criteria specified at 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

a. The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

b. The third-party administrator shall date-stamp Form 470-3563 with the date the completed form is received.

c. The third-party administrator shall notify the family of the referral and proceed with an eligibility determination under the HAWK-I program.

d. The period for processing the referral begins with the day on which:

(1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or

(2) The third-party administrator receives the electronic referral file.

**86.4(4)** *Medicaid member becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of rule 441—75.59(249A) and meets the criteria specified at subrule 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

*a.* The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

*b.* The third-party administrator shall:

- (1) Date-stamp Form 470-3563 with the date the completed form is received;
- (2) Notify the family of the referral; and
- (3) Proceed with an eligibility determination under the HAWK-I program.

*c.* The period for processing the referral begins with the day on which:

- (1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or
- (2) The third-party administrator receives the electronic referral file.

**441—86.5(514I) Effective date of coverage.**

**86.5(1) *Initial application.*** Coverage for children who are determined eligible for the HAWK-I program on the basis of an initial application for either HAWK-I or Medicaid shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed, or when a plan becomes available in the applicant's county of residence. However, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph 86.8(2) "c" when the child's health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

*a.* The child is moving from Medicaid to HAWK-I.

*b.* The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.

*c.* The cost of health insurance coverage for the child exceeds 5 percent of the family's gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.

*d.* The health insurance was provided through an individual plan.

*e.* The child's health insurance coverage was lost due to:

- (1) Domestic violence.
- (2) Divorce or death of a parent.
- (3) An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.
- (4) A job change to a new employer that does not offer the parent dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.
- (5) Utilization of the maximum lifetime coverage amount.
- (6) Expiration of coverage under COBRA.
- (7) Discontinuation of dependent coverage by the parent's employer.
- (8) A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

**86.5(2) *Referrals from Medicaid.***

*a. Cancellation of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost, regardless of the date of the referral, in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

*b. Denial of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to denial of Medicaid benefits shall be effective no earlier than the first day of the month following the month in which the Medicaid application was received in accordance with 441—subrule 76.1(2). However, when such a child does not meet the

provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

**86.5(3) Annual renewals.** Coverage for children who are determined eligible for the HAWK-I program on the basis of an annual renewal shall be effective the first day of the month following the month in which the previous enrollment period ended.

**86.5(4) Children added to an existing HAWK-I enrollment period.** Coverage for children who are determined eligible for the HAWK-I program on the basis of a request from the family to add the child to an existing enrollment period shall be effective the first day of the month following the month in which the request was made. However, if the child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost unless the child is subject to a one-month waiting period in accordance with paragraph 86.2(4) "b."

[ARC 8281B, IAB 11/18/09, effective 12/23/09]

**441—86.6(514I) Selection of a plan.** At the time of initial application, if there is more than one participating health or dental plan available in the child's county of residence, the applicant shall select the health or dental plan in which the applicant wishes to enroll as part of the eligibility process. The enrollee may change plans only at the time of the annual review unless the provisions of subrule 86.7(1) or paragraph 86.6(2) "a" apply. The applicant may designate the plan choice verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose but is not required.

**86.6(1) Coverage in another county's health plan.** If a child traditionally travels to another county to receive medical care, the applicant may choose to participate in the health plan available in the county in which the child receives medical care.

**86.6(2) Period of enrollment.** Once enrolled in a health or dental plan, the child shall remain enrolled in the selected health or dental plan for a period of 12 months unless:

*a.* There is a substantial change in the provider panel of the health or dental plan originally chosen, as determined by the board. A substantial change means, but is not limited to, loss of a contracted hospital or provider group. When there is another participating health or dental plan available in the child's county of residence, the child may disenroll from the current health or dental plan and enroll in the other health or dental plan.

*b.* The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the health or dental plan and subsequently reapplies before the end of the original 12-month enrollment period, the child shall be enrolled in the health or dental plan from which the child was originally disenrolled unless the provisions of subrule 86.7(1) apply.

*c.* The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

**86.6(3) Failure to select a health or dental plan.** When more than one health or dental plan is available, if the applicant fails to select a health or dental plan within ten working days of the written request to make a selection, the third-party administrator shall select the health or dental plan and notify the family of the enrollment. The third-party administrator shall select the plan on a rotating basis to ensure an equitable distribution between participating health and dental plans.

*a.* If the third-party administrator has assigned a child a health or dental plan, the family has 30 days to request enrollment into another participating health or dental plan. All changes shall be made prospectively and shall be effective on the first day of the month following the month of the request.

*b.* If the family has not requested a change of enrollment into another available health or dental plan within 30 days, the provisions of 86.6(2) shall apply.

**86.6(4) Child moves from the service area.** The child may be disenrolled from the health or dental plan when the child moves to an area of the state in which the health or dental plan does not have a provider network established. If the child is disenrolled, the child shall be enrolled in a participating health or dental plan in the new location. The period of enrollment shall be the number of months remaining in the original certification period.

**86.6(5) *Change at annual review.*** If more than one health or dental plan is available at the time of the annual review of eligibility, the family may designate another plan either verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose. The child shall remain enrolled in the current health or dental plan if the family does not notify the third-party administrator of a new health or dental plan choice by the end of the current 12-month enrollment period.

[ARC 8478B, IAB 1/13/10, effective 3/1/10]

**441—86.7(514I) Cancellation.** The child's eligibility for the HAWK-I program shall be canceled before the end of the 12-month enrollment period for any of the following:

**86.7(1) *Child moves from the service area.*** Rescinded IAB 1/13/10, effective 3/1/10.

**86.7(2) *Age.*** The child shall be canceled from the HAWK-I program as of the first day of the month following the month in which the child attained the age of 19.

**86.7(3) *Nonpayment of premiums.*** The child shall be canceled from the program as of the first day of the month in which premiums are not paid in accordance with the provisions of subrules 86.8(3) and 86.8(5).

**86.7(4) *Iowa residence abandoned.*** The child shall be canceled from the program as of the first day of the month following the month in which the child relocated to another state. Eligibility shall not be canceled when the child is temporarily absent from the state in accordance with the provisions of subrule 86.2(6).

**86.7(5) *Eligible for Medicaid.*** The child shall be canceled from the program as of the first day of the month following the month in which the third-party administrator is notified of Medicaid eligibility. If there are months during which the child is covered by both the Medicaid and HAWK-I programs, the HAWK-I program shall be the primary payor and Medicaid shall be the payor of last resort.

**86.7(6) *Enrolled in other health insurance coverage.*** The child shall be canceled from the program as of the first day of the month following the month in which the third-party administrator is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the HAWK-I program, the other insurance plan shall be the primary payor and HAWK-I shall be the payor of last resort.

**86.7(7) *Admission to a nonmedical public institution.*** The child shall be canceled from the program as of the first day of the month following the month in which the child enters a nonmedical public institution unless the temporary absence provisions of paragraph 86.2(3) "d" apply.

**86.7(8) *Admission to an institution for mental disease.*** The child shall be canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

**86.7(9) *Employment with the state of Iowa.*** The child shall be canceled from the HAWK-I program as of the first day of the month in which the child's parent became eligible to participate in a health or dental plan available to state of Iowa employees.

[ARC 8478B, IAB 1/13/10, effective 3/1/10]

**441—86.8(514I) Premiums and copayments.**

**86.8(1) *Income considered.*** The countable income considered in determining the premium amount shall be the family's gross countable income minus 20 percent of the family's earned income.

**86.8(2) *Premium amount.*** Except as specified for supplemental dental-only coverage in subrule 86.20(4), premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaskan Native; or

(2) The family's countable income is less than 150 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds 150 percent of the federal poverty level for a family of the same size but does not exceed 200 percent of the federal poverty level for a family of that size, the premium is \$10 per child per month with a \$20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds 200 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

**86.8(3) Due date.**

*a. Payment upon initial application.* “Initial application” means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the tenth day of the second month following the month of decision.

*b. Payment upon renewal.* “Renewal” means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the tenth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the third-party administrator shall notify the health and dental plans of the enrollment.

*c. Subsequent payments.* All subsequent premiums are due by the tenth day of each month for the next month’s coverage and must be postmarked no later than the last day of the month before the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in cancellation from the program. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

**86.8(4) Reinstatement.** A child may be reinstated once per enrollment period when the family fails to pay the premium by the last day of the month for the next month’s coverage. If the premium is subsequently received, coverage will be reinstated if the premium was postmarked or otherwise paid in the calendar month immediately following disenrollment.

**86.8(5) Method of premium payment.** Premiums may be submitted in the form of cash, personal checks, automatic bank account withdrawals, or other methods established by the third-party administrator.

**86.8(6) Failure to pay premium.** Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in cancellation from the program unless the reinstatement provisions of subrule 86.8(4) apply. Once a child is canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

**86.8(7) Copayment.** There shall be a \$25 copayment for each emergency room visit if the child’s medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 150 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

[ARC 7770B, IAB 5/20/09, effective 7/1/09; ARC 8478B, IAB 1/13/10, effective 3/1/10]

**441—86.9(514I) Annual reviews of eligibility.** All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. “Month one” shall be the first month in which coverage is provided.

**86.9(1) Review form.** The third-party administrator shall send the family Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, on which the answers, except for income, have been completed based on the information on file. The family shall review the completed information for accuracy and fill in the income section of the form. The family shall be required to provide verification of current income and sign and date the form attesting to its accuracy as part of the review process.

**86.9(2) Failure to provide information.** The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process. If the completed review form and any information necessary to establish continued eligibility are received within 14 calendar days of the end of an enrollment period, the review form and information shall be acted upon as though they had been received timely. If the fourteenth

calendar day falls on a weekend or state holiday, the enrollee shall have until the next business day to provide the review form and any information necessary to establish continued eligibility.

**86.9(3) *Change in plan.*** Rescinded IAB 1/13/10, effective 3/1/10.  
[ARC 8478B, IAB 1/13/10, effective 3/1/10; ARC 8580B, IAB 3/10/10, effective 3/1/10]

**441—86.10(514I) Reporting changes.** Changes that may affect eligibility shall be reported timely to the third-party administrator. “Timely” shall mean no later than ten working days after the change occurred. “Day one” of the ten-day period shall mean the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. If the child is emancipated, married, or otherwise in an independent living situation, the child shall be responsible for reporting the change.

**86.10(1) *Pregnancy.*** The pregnancy of a child shall be reported when the pregnancy is diagnosed.

**86.10(2) *Entry to a nonmedical public institution.*** The entry of a child into a nonmedical public institution, such as a penal institution, shall be reported following entry to the institution.

**86.10(3) *Iowa residence is abandoned.*** The abandonment of Iowa residence shall be reported following the move from the state.

**86.10(4) *Other insurance coverage.*** Enrollment of the child in other health insurance coverage shall be reported.

**86.10(5) *Employment with the state of Iowa.*** The employment of the child’s parent with the state of Iowa shall be reported.

**86.10(6) *Decrease in income.*** If the family reports a decrease in income, the third-party administrator shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

**86.10(7) *Failure to report changes.*** Rescinded IAB 11/19/08, effective 1/1/09.

**86.10(8) *Information reported by a third party.*** Information reported by a third party shall not be acted upon until the information is verified in accordance with subrule 86.3(7).

**86.10(9) *Cooperation.*** The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

**86.10(10) *Effective date of change in eligibility.***

*a.* When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

*b.* When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

*c.* When an anticipated change in circumstances is reported before the change occurs, no action shall be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

**441—86.11(514I) Notice requirements.** The applicant shall be provided an adequate written notice of the decision of the third-party administrator regarding the applicant’s eligibility for the HAWK-I program. The enrollee shall be notified in writing of any decision that adversely affects the enrollee’s eligibility or the amount of benefits. The notice shall be timely and adequate as provided in 441—subrule 7.7(1).

**441—86.12(514I) Appeals and fair hearings.** If the applicant or enrollee disputes a decision by the third-party administrator to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

**441—86.13(514I) Third-party administrator.** The third-party administrator shall have the following responsibilities:

**86.13(1) Determination of eligibility.** The third-party administrator shall determine eligibility in accordance with the provisions of rule 441—86.2(514I).

**86.13(2) Dissemination of application forms and information.** The third-party administrator shall disseminate the following:

*a.* Rescinded IAB 10/17/01, effective 12/1/01.

*b.* Outreach materials, application forms, or other materials developed and produced by the department to any organization or individual making a request for the materials. If the request is for quantities exceeding ten, the third-party administrator shall forward the request to Iowa prison industries for dissemination.

*c.* Participating health and dental plan information.

*d.* Other materials as specified by the department.

**86.13(3) Toll-free dedicated customer services line.** The third-party administrator shall maintain a toll-free multilingual dedicated customer service line in accordance with the requirements of the department.

**86.13(4) HAWK-I program web site.** The third-party administrator shall work in cooperation with the department to maintain a web site providing information about the HAWK-I program.

**86.13(5) Application process.** The third-party administrator shall process applications in accordance with the provisions of rule 441—86.3(514I).

*a.* Processing applications and mailing of approvals and denials shall be completed within ten working days of receipt of the application and all necessary information and verification unless the application cannot be processed within this period for a reason beyond the control of the third-party administrator.

*b.* Original verification information shall be returned to the applicant or enrollee upon completion of review.

**86.13(6) Tracking of applications.** The third-party administrator shall track and maintain applications. This includes, but is not limited to, the following procedures:

*a.* Date-stamping all applications with the date of receipt.

*b.* Screening applications for completeness and requesting in writing any additional information or verification necessary to establish eligibility. All information or verification of information attained shall be logged.

*c.* Entering all applications received into the data system with an identifier status of pending, approved, or denied.

*d.* Referring applications to the county office of the department, when appropriate, and receiving application referrals from the department.

*e.* Rescinded IAB 7/9/03, effective 7/1/03.

*f.* Notifying the health and dental plans when the number of enrollees who speak the same non-English language equals or exceeds 10 percent of the number of enrollees in the health or dental plan.

**86.13(7) Effective date of coverage.** The third-party administrator shall establish effective date of coverage in accordance with the provisions of rule 441—86.5(514I).

**86.13(8) Selection of health or dental plan.** The third-party administrator shall provide participating health and dental plan information to families of eligible children by telephone or mail and, if necessary, offer unbiased assistance in the selection of a health or dental plan in accordance with the provisions of rule 441—86.6(514I).

**86.13(9) Enrollment.** The third-party administrator shall notify participating health and dental plans of enrollments.

**86.13(10) *Disenrollments.*** The third-party administrator shall disenroll an enrollee when the enrollee's eligibility for the HAWK-I program is canceled in accordance with the provisions of rule 441—86.7(514I). The third-party administrator shall notify the participating health and dental plans when an enrollee is disenrolled.

**86.13(11) *Annual reviews of eligibility.*** The third-party administrator shall annually review eligibility in accordance with the provisions of rules 441—86.2(514I) and 441—86.9(514I).

**86.13(12) *Acting on reported changes.*** The third-party administrator shall ensure that all changes reported by the HAWK-I enrollee in accordance with rule 441—86.10(514I) are acted upon no later than ten working days from the date the change is reported.

**86.13(13) *Premiums.*** The third-party administrator shall:

- a. Calculate premiums in accordance with the provisions of rule 441—86.8(514I).
- b. Collect HAWK-I premium payments. The funds shall be deposited into an interest-bearing account maintained by the department for periodic transmission of the funds and any accrued interest to the HAWK-I trust fund in accordance with state accounting procedures.
- c. Track the status of the enrollee premium payments and provide the data to the department.
- d. Mail a reminder notice to the family if the premium is not received by the due date.

**86.13(14) *Notices to families.*** The third-party administrator shall develop and provide timely and adequate approval, denial, and cancellation notices to families that clearly explain the action being taken in regard to an application or an existing enrollment. Denial and cancellation notices shall clearly explain the appeal rights of the applicant or enrollee. All notices shall be available in English and Spanish.

**86.13(15) *Records.*** The third-party administrator shall at a minimum maintain the following records:

- a. All records required by the department and the department of inspections and appeals.
- b. Records which identify transactions with or on behalf of each enrollee by social security number or other unique identifier.
- c. Application, case and financial records.
- d. All other records as required by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

**86.13(16) *Confidentiality.*** The third-party administrator shall protect and maintain the confidentiality of HAWK-I applicants and enrollees in accordance with 441—Chapter 9.

**86.13(17) *Reports to the department.*** The third-party administrator shall submit reports as required by the department.

**86.13(18) *Systems.*** The third-party administrator shall maintain data files that are compatible with the department's and the health plans' data files and shall make the system accessible to department staff.  
[ARC 8478B, IAB 1/13/10, effective 3/1/10]

**441—86.14(514I) *Covered services.*** The benefits provided under the HAWK-I program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act.

**86.14(1) *Required medical services.*** The participating health plan shall cover at a minimum the following medically necessary services:

- a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).
- b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).
- c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).
- d. Ambulance services.
- e. Physical therapy.
- f. Nursing care services (including skilled nursing facility services).

- g.* Speech therapy.
- h.* Durable medical equipment.
- i.* Home health care.
- j.* Hospice services.
- k.* Prescription drugs.
- l.* Rescinded IAB 1/13/10, effective 3/1/10.
- m.* Hearing services.
- n.* Vision services (including corrective lenses).

**86.14(2) Abortion.** Payment for abortion shall only be made under the following circumstances:

- a.* The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.
- b.* The pregnancy was the result of an act of rape or incest.

**86.14(3) Required dental services.** Participating dental plans shall cover at a minimum the following necessary dental services:

- a.* Diagnostic and preventive services.
- b.* Routine and restorative services.
- c.* Endodontic services.
- d.* Periodontal services.
- e.* Cast restorations.
- f.* Prosthetics.

[ARC 8478B, IAB 1/13/10, effective 3/1/10]

#### **441—86.15(514I) Participating health and dental plans.**

**86.15(1) Licensure.** The participating health or dental plan must:

- a.* Be licensed by the division of insurance of the department of commerce to provide health or dental care coverage in Iowa; or
- b.* Be an organized delivery system licensed by the director of public health to provide health or dental care coverage.

**86.15(2) Services.** The participating health or dental plan shall provide coverage for the services specified in rule 441—86.14(514I) to all children determined eligible by the third-party administrator.

*a.* The participating health or dental plan shall make services it provides to HAWK-I enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the health or dental plan.

*b.* Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

*c.* If a participating health or dental plan does not provide statewide coverage, the health or dental plan shall participate in every county within the region in which the health or dental plan has contracted to provide services in which it is licensed and in which a provider network has been established. Regions are specified in rule 441—86.1(514I).

**86.15(3) Premium tax.** Premiums paid to participating health and dental plans by the third-party administrator are exempt from premium tax.

**86.15(4) Provider network.** The participating health or dental plan shall establish a network of providers. Providers contracting with the participating health or dental plan shall comply with HAWK-I requirements, which shall include collecting copayments, if applicable.

**86.15(5) Identification cards.** Identification cards shall be issued by the participating health or dental plan to the enrollees for use in securing covered services.

**86.15(6) Marketing.**

*a.* Participating health and dental plans may not distribute directly or through an agent or independent contractor any marketing materials.

*b.* All marketing materials require prior approval from the department.

c. At a minimum, participating health and dental plans must provide the following material in writing or electronically:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the HAWK-I enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All health and dental plan literature and brochures shall be available in English and any other language when enrollment in the health or dental plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the health or dental plan and shall be made available to the third-party administrator for distribution.

d. All health and dental plan literature and brochures shall be approved by the department.

e. The participating health and dental plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other “cold-call” marketing.

f. The participating health or dental plan may make marketing presentations at the discretion of the department.

**86.15(7) Appeal process.** The participating health or dental plan shall have a written procedure by which enrollees may appeal issues concerning the health or dental care services provided through providers contracted with the health or dental plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames which ensure that appeals be resolved within 60 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician, dentist, or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals which is made available to the department at its request.

i. Ensures that the participating health or dental plan’s written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health or dental plan make quarterly reports to the department summarizing appeals and resolutions.

**86.15(8) Appeals to the department.** Rescinded IAB 1/13/99, effective 1/1/99.

**86.15(9) Records and reports.** The participating health and dental plans shall maintain records and reports as follows:

a. The health or dental plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the health or dental plan or subcontractor of the health or dental plan, as appropriate, must maintain a medical or dental records system that:

(1) Identifies each medical or dental record by HAWK-I enrollee identification number.

(2) Maintains a complete medical or dental record for each enrollee.

(3) Provides a specific medical or dental record on demand.

(4) Meets state and federal reporting requirements applicable to the HAWK-I program.

(5) Maintains the confidentiality of medical or dental records information and releases the information only in accordance with established policy below:

1. All medical and dental records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, other practitioners, or facilities that are providing services to enrollees under a

subcontract with the health or dental plan. This provision also applies to specialty providers who are retained by the health or dental plan to provide services which are infrequently used, which provide a support system service to the operation of the health or dental plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the health or dental plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

3. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, or facilities providing emergency care pursuant to paragraph 86.15(2) "b."

4. Written consent is required for the transmission of the medical or dental records information of a former enrollee to any physician or dentist not connected with the health or dental plan.

5. The extent of medical or dental records information to be released in each instance shall be based upon a test of medical or dental necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical and dental records maintained by subcontractors shall meet the requirements of this rule.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each health or dental plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

- (1) A list of providers of services under the plan.
- (2) Encounter data on a monthly basis as required by the department.
- (3) Other information as directed by the department.

c. Each health or dental plan shall at a minimum provide reports and health or dental plan information to the department as follows:

- (1) Information regarding the plan's appeal process.
- (2) A plan for a health improvement program.
- (3) Periodic financial, utilization and statistical reports as required by the department.
- (4) Time-specific reports which define activity for child health care, appeals and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered or other differences.
- (5) Other information as directed by the department.

**86.15(10) Systems.** The participating health or dental plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

**86.15(11) Payment to the participating health or dental plan.**

a. In consideration for all services rendered by a health or dental plan, the health or dental plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical or dental care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the health or dental plan for risks assumed under the current or any previous contract. The health or dental plan accepts the rate as payment in full for the contracted services. Any savings realized by the health or dental plan due to lower utilization from a less frequent incidence of health or dental problems among the enrolled population shall be wholly retained by the health or dental plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical or dental expenses, it is the right and responsibility of the health or dental plan to investigate these third-party resources and attempt to obtain payment. The health or dental plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

**86.15(12) Quality assurance.** The health or dental plan shall have in effect an internal quality assurance system.

[ARC 8478B, IAB 1/13/10, effective 3/1/10]

**441—86.16(514I) Clinical advisory committee.** Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2) “c” shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

**441—86.17(514I) Use of donations to the HAWK-I program.** If an individual or other entity makes a monetary donation to the HAWK-I program, the department shall deposit the donation into the HAWK-I trust fund. The department shall track all donations separately and shall not commingle the donations with other moneys in the trust fund. The department shall report the receipt of all donations to the HAWK-I board.

**86.17(1)** If the donor specifically identifies the purpose of the donation, regardless of the amount, the donation shall be used as specified by the donor as long as the identified purpose is permissible under state and federal law.

**86.17(2)** If the donation is less than \$5,000 and the donor does not specifically identify how it is to be used, the department shall use the moneys in the following order:

- a. For the direct benefit of enrollees (e.g., premium payments).
- b. For outreach activities.
- c. For other purposes as determined by the HAWK-I board.

**86.17(3)** If the donation is more than \$5,000 and the donor does not specify how the funds are to be used, the HAWK-I board shall determine how the funds are to be used.

**441—86.18(505) Health insurance data match program.** All carriers, as defined in Iowa Code section 514C.13, shall enter into an agreement with the department to provide data necessary to allow the department to comply with the mandate of Iowa Code section 505.25. Each carrier shall either:

1. Enter into and maintain an agreement with the department on Form 470-4435, HAWK-I Data Use Agreement; or
2. Provide proof of an existing agreement with the department or the department’s designee.

**441—86.19(514I) Recovery.**

**86.19(1) Definitions.**

“*Administrative error*” means an action attributed to the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.
9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child’s Medicaid eligibility.

“*Client error*” means any action or inaction attributed to the enrollee that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because the enrollee or the enrollee’s representative:

1. Failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or

2. Failed to timely report a change as defined in rule 441—86.10(514I).

**86.19(2) Amount subject to recovery from the enrollee or representative.** The department may recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a health or dental plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

*a.* Premiums incorrectly paid to a health or dental plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

*b.* Payments made by a health or dental plan to a provider of medical or dental services are not subject to recovery from the enrollee regardless of the cause of the error.

**86.19(3) Notification.** The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

*a.* The name of the person for whom funds were incorrectly paid;

*b.* The period during which the funds were incorrectly paid;

*c.* The amount subject to recovery; and

*d.* The reason for the incorrect payment.

**86.19(4) Recovery.**

*a.* Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee's representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

*b.* The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

*c.* Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

**86.19(5) Appeals.** The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

[ARC 8478B, IAB 1/13/10, effective 3/1/10; ARC 8839B, IAB 6/16/10, effective 8/1/10]

#### **441—86.20(514I) Supplemental dental-only coverage.**

**86.20(1) Definition.**

"*Supplemental dental-only coverage*" means dental care coverage provided to a child who meets the eligibility requirements for the HAWK-I program except that the child is covered by health insurance through an individual or group health plan.

**86.20(2) Eligibility.** Unless otherwise specified, eligibility for supplemental dental-only coverage shall be determined in accordance with the provisions of rules 441—86.1(514I) through 441—86.12(514I), 441—86.18(514I), and 441—86.19(514I).

**86.20(3) Premiums.** Premiums for participation in the supplemental dental-only plan are assessed as follows:

*a.* No premium is charged to families who meet the provisions of paragraph 86.8(2) "a."

*b.* If the family's gross countable income is equal to or exceeds 150 percent of the federal poverty level but does not exceed 200 percent of the federal poverty level for a family of the same size, the premium is \$5 per child per month with a \$10 monthly maximum per family.

*c.* If the family's gross countable income exceeds 200 percent of the federal poverty level but does not exceed 250 percent of the federal poverty level for a family of the same size, the premium is \$10 per child per month with a \$15 monthly maximum per family.

*d.* If the family's gross countable income exceeds 250 percent of the federal poverty level but does not exceed 300 percent of the federal poverty level for a family of the same size, the premium is \$15 per child per month with a \$20 monthly maximum per family.

*e.* If the family includes uninsured children who are eligible for both medical and dental coverage under HAWK-I and insured children who are eligible only for dental coverage, the premium shall be assessed as follows:

(1) The total premium shall be no more than the amount that the family would pay if all the children were eligible for both medical and dental coverage.

(2) If the family has one child eligible for both medical and dental coverage and one child eligible for dental coverage only, the premium shall be the total of the health and dental premium for one child and the dental premium for one child.

(3) If the family has two or more children eligible for both medical and dental coverage, no additional premium shall be assessed for dental-only coverage for the children who do not qualify for medical coverage under HAWK-I because they are covered by health insurance.

**86.20(4) *Waiting lists.*** Before the provisions of subrule 86.3(10) are implemented, all children enrolled in supplemental dental-only coverage shall be disenrolled from the program.

[ARC 8478B, IAB 1/13/10, effective 3/1/10]

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CHAPTER 31  
FOOD ESTABLISHMENT AND FOOD  
PROCESSING PLANT INSPECTIONS

[Prior to 8/26/87, see Inspections and Appeals Department[481]—Chs 21 and 22]

**481—31.1(137F) Inspection standards.** The department adopts the 2005 Food Code with Supplement of the Food and Drug Administration as the state's "food code" with the following exceptions.

**31.1(1)** Section 3-201.11 is amended to allow honey which is stored; prepared, including by placement in a container; or labeled on or distributed from the premises of a residence to be sold in a food establishment.

**31.1(2)** Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments.

**31.1(3)** Paragraph 3-502.12(A) is amended by adding the following: "Packaging of raw meat and poultry using an oxygen packaging method, with a 30-day 'sell by' date from the date it was packaged, shall be exempt from having a HACCP Plan."

**31.1(4)** Reserved.

**31.1(5)** Paragraph 4-301.12(C) is amended by adding the following: "Establishments need not have a three-compartment sink when each of the following conditions is met:

"1. Three or fewer utensils are used for food preparation;

"2. Utensils are limited to tongs, spatulas, and scoops; and

"3. The department has approved after verification that the establishment can adequately wash and sanitize these utensils."

**31.1(6)** Paragraph 5-203.11(C) is deleted.

**31.1(7)** Section 5-203.14 is amended by adding the following: "Water outlets with hose attachments, except for water heater drains and clothes washer connections, shall be protected by a non-removable hose bibb backflow preventer or by a listed atmospheric vacuum breaker installed at least six inches above the highest point of usage and located on the discharge side of the last valve."

**31.1(8)** Paragraph 5-402.11(D) is amended by adding the following: "A culinary sink or sink used for food preparation shall not have a direct connection between the sewage system and a drain originating from that sink. Culinary sinks or sinks used in food preparation shall be separated by an air break."

**31.1(9)** Elder group homes as defined by Iowa Code section 231B.1 shall be inspected by the department, but Chapters 4 and 6 of the Food Code shall not apply. Elder group homes shall pay the lowest license fee in 481—subrule 30.4(2).

**31.1(10)** Nonprofit organizations that are licensed as temporary food establishments may serve nonpotentially hazardous food from an unapproved source for the duration of the event.

**31.1(11)** Section 3-301.11(D)(1) is amended by striking the words "regulatory authority" and inserting the word "department."

**31.1(12)** Section 3-201.16, paragraph (A), is amended by the adding the following:

"A food establishment or farmers market potentially hazardous food licensee may serve or sell morel mushrooms if procured from an individual who has completed a morel mushroom identification expert course. Every morel mushroom shall be identified and found to be safe by a certified morel mushroom identification expert whose competence has been verified and approved by the department through the expert's successful completion of a morel mushroom identification expert course provided by either an accredited college or university or a mycological society. The certified morel mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom. A morel mushroom identification expert course shall be at least three hours in length. To maintain status as a morel mushroom identification expert, the individual shall have successfully completed a morel mushroom identification expert course described above within the past three years. A person who wishes to offer a morel mushroom identification expert course must submit the course curriculum to the department for review and approval. Food establishments or farmers market potentially hazardous food licensees offering morel mushrooms shall maintain the following information for a period of 90 days from the date the morel mushrooms were obtained:

- “1. The name, address, and telephone number of the morel mushroom identification expert;
  - “2. A copy of the morel mushroom identification expert’s certificate of successful completion of the course, containing the date of completion; and
  - “3. The quantity of morel mushrooms purchased and the date(s) purchased.
- “Furthermore, a consumer advisory shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means that wild mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”  
[ARC 8696B, IAB 4/21/10, effective 4/1/10; ARC 8856B, IAB 6/16/10, effective 7/21/10]

**481—31.2(137F) Food processing plant standards.**

1. Standards used to inspect establishments where wholesale food is manufactured, processed, packaged or stored are found in the Code of Federal Regulations in 21 CFR, Part 110, April 1, 2007, publication, “Current Good Manufacturing Practices in Manufacturing, Processing, Packing or Holding Human Food.”

2. Standards used to inspect establishments where bakery products, flour, cereals, food dressings and flavorings are manufactured on a wholesale basis are found in the Code of Federal Regulations in 21 CFR, Parts 136, 137 and 169, April 1, 2007, publication.

3. Standards used to inspect establishments which process low-acid food in hermetically sealed containers are found in 21 CFR, Part 113, April 1, 2007, “Thermally Processed Low-Acid Food Packaged in Hermetically Sealed Containers.”

4. Standards used to inspect establishments which process acidified foods are found in 21 CFR, Part 114, April 1, 2007, “Acidified Foods.”

5. Standards used to inspect establishments which process bottled drinking water are found in the Code of Federal Regulations in 21 CFR, Parts 129 and 165, April 1, 2007, publications, “Processing and Bottling of Bottled Drinking Water” and “Beverages.”

6. In addition to compliance with rule 481—31.2(137F)“1,” manufacturers of packaged ice must comply with the following:

- Equipment must be cleaned on a schedule of frequency that prevents the accumulation of mold, fungus and bacteria. A formal cleaning program and schedule which include the use of sanitizers to eliminate microorganisms must be developed and used.
- Packaged ice must be tested every 120 days for the presence of bacteria.
- Plants that use a nonpublic water system must sample the water supply monthly for the presence of bacteria and annually for chemical and pesticide contamination.

Copies of these regulations are available from the Department of Inspections and Appeals, Bureau of Food and Consumer Safety, Lucas State Office Building, Des Moines, Iowa 50319-0083.

**481—31.3(137F) Trichinae control for pork products prepared at retail.** Pork products prepared at retail shall comply with the Code of Federal Regulations found in 9 CFR, Section 318.10, January 1, 2007, publication, regarding the destruction of possible live trichinae in pork and pork products. Examples of pork products that require trichinae control include raw sausages containing pork and other meat products, raw breaded pork products, bacon used to wrap around steaks and patties, and uncooked mixtures of pork and other meat products contained in meat loaves and similar types of products. The use of “certified pork” as authorized by the department of agriculture and land stewardship or the United States Department of Agriculture Food Safety and Inspection Service shall meet the requirements of this rule.

**481—31.4(137F) Certified food protection programs.** For purposes of Section 2-102.11, a program approved by the Conference on Food Protection shall meet the criteria for a certified food protection manager.

**481—31.5(137F) Labeling.** The following labeling standards are required in addition to those in the Food Code. Labels on or with packaged foods shall be in legible English and state:

1. The true name, brand or trademark of the article;

2. The names of all ingredients in the food, beginning with the one present in the largest proportion and in descending order of predominance;
3. The quantity of the contents in terms of weight, measure or numerical count;
4. The name and address of the manufacturer, packer, importer, distributor or dealer.

Foods and food products labeled in conformance with the labeling requirements of the government of the United States as listed in the Code of Federal Regulations in 21 CFR, April 1, 1998, publication, Parts 101 and 102, are considered in compliance with the Iowa labeling law.

**481—31.6(137F) Adulterated food and disposal.** No one may produce, distribute, offer for sale or sell adulterated food. “Adulterated” is defined in the federal Food, Drug and Cosmetic Act, Section 402.

Adulterated food shall be disposed of in a reasonable manner as determined by the department. The destruction of adulterated food shall be watched by a person approved by the department.

**481—31.7(137F) Mobile food units/pushcarts.** Rescinded IAB 8/13/08, effective 7/24/08.

**481—31.8(137F) Enforcement.** A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of \$100 for each violation. Prior to the assessment of any civil penalties, a hearing conducted by the appeals division in the department of inspections and appeals must be provided as required in rule 481—30.13(10A). Additionally, the department may employ various other remedies if violations are discovered:

1. A license may be revoked or suspended.
2. An injunction may be sought.
3. A case may be referred to a county or city attorney for criminal prosecution.

**481—31.9(137F) Toilets and lavatories.** Separate toilet facilities for men and women shall be provided in places which seat 50 or more people or in places which serve beer or alcoholic beverages.

**481—31.10(137F) Warewashing sinks in establishments serving alcoholic beverages.** When alcoholic beverages are served in a food service establishment, a sink with not fewer than three compartments shall be used in the bar area for manual washing, rinsing and sanitizing of bar utensils and glasses. When food is served in a bar, a separate three-compartment sink for washing, rinsing and sanitizing food-related dishes shall be used in the kitchen area, unless a dishwasher is used to wash utensils.

**481—31.11(137F) Criminal offense—conviction of license holder.**

**31.11(1)** The department may revoke the license of a license holder who:

- a. Conducts an activity constituting a criminal offense in the licensed food establishment; and
- b. Is convicted of a felony as a result.

**31.11(2)** The department may suspend or revoke the license of a license holder who:

- a. Conducts an activity constituting a criminal offense in the licensed food establishment; and
- b. Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.

**31.11(3)** A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

**31.11(4)** The department’s decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of 481—30.13(10A).

**481—31.12(137F) Temporary food establishments and farmers market potentially hazardous food licensees.**

**31.12(1) Personnel.**

- a. Employees shall keep their hands and exposed portions of their arms clean.
- b. Employees shall have clean garments, aprons and effective hair restraints. Smoking, eating or drinking in food booths is not allowed. All nonworking, unauthorized persons are to be kept out of the food booth.

c. All employees, including volunteers, shall be under the direction of the person in charge. The person in charge shall ensure that the workers are effectively cleaning their hands, that potentially hazardous food is adequately cooked, held or cooled, and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

d. Employees and volunteers shall not work at a temporary food establishment or farmers market potentially hazardous food establishment licensees if the employees and volunteers have open cuts, sores or communicable diseases. The person in charge shall take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

e. Every employee and volunteer must sign a logbook with the employee's or volunteer's name, address, telephone number and the date and hours worked. The logbook must be maintained for 30 days by the person in charge and be made available to the department upon request.

**31.12(2) Food handling and service.**

a. *Dry storage.* All food, equipment, utensils and single-service items shall be stored off the ground and above the floor on pallets, tables or shelving.

b. *Cold storage.* Refrigeration units shall be provided to keep potentially hazardous foods at 41°F or below. The inspector may approve an effectively insulated, hard-sided container with sufficient coolant for storage of less hazardous food or the use of such a container at events of short duration if the container maintains the temperature at 41°F or below.

c. *Hot storage.* Hot food storage units shall be used to keep potentially hazardous food at 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills capable of holding the temperature at 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked.

d. *Cooking temperatures.* As specified in the following chart, the minimum cooking temperatures for food products are:

165°F	<ul style="list-style-type: none"> <li>● Poultry and game animals that are not commercially raised</li> <li>● Products stuffed or in a stuffing that contains fish, meat, pasta, poultry or ratite</li> <li>● All products cooked in a microwave oven</li> </ul>
155°F	<ul style="list-style-type: none"> <li>● Rabbits, ratite and game meats that are commercially raised</li> <li>● Ground or comminuted (such as hamburgers) meat/fish products</li> <li>● Raw shell eggs not prepared for immediate consumption</li> </ul>
145°F	<ul style="list-style-type: none"> <li>● Pork and raw shell eggs prepared for immediate consumption</li> <li>● Fish and other meat products not requiring a 155°F or 165°F cooking temperature as listed above</li> </ul>

e. *Consumer advisory requirement.* If raw or undercooked animal food such as beef, eggs, fish, lamb, poultry or shellfish is offered in ready-to-eat form, the license holder (person in charge) shall post the consumer advisory as required by the food code.

f. *Thermometers.* Each refrigeration unit shall have a numerically scaled thermometer to measure the air temperature of the unit accurately. A metal stem thermometer shall be provided where necessary to check the internal temperature of both hot and cold food. Thermometers must be accurate and have a range from 0°F to 220°F.

g. *Food display.* Foods on display must be covered. The public is not allowed to serve itself from opened containers of food or uncovered food items. Condiments such as ketchup, mustard, coffee creamer and sugar shall be served in individual packets or from squeeze containers or pump bottles. Milk shall be dispensed from the original container or from an approved dispenser. All fruits and vegetables must be washed before being used or sold. Food must be stored at least six inches off the ground. All cooking and serving areas shall be adequately protected from contamination. Barbeque areas shall be roped off or otherwise protected from the public. All food shall be protected from customer handling, coughing or sneezing by wrapping, sneeze guards or other effective means.

*h. Food preparation.* Unless otherwise approved by a variance from the department, no bare-hand contact of ready-to-eat food shall occur.

*i. Approved food source.* All food supplies shall come from a commercial manufacturer or an approved source. The use of food in hermetically sealed containers that is not prepared in an approved food processing plant is prohibited. Transport vehicles used to supply food products are subject to inspection and shall protect food from physical, chemical and microbial contamination.

*j. Leftovers.* Hot-held foods that are not used by the end of the day must be discarded.

**31.12(3) Utensil storage and warewashing.**

*a. Single-service utensils.* The use of single-service plates, cups and tableware is required.

*b. Dishwashing.* If approved, an adequate means to heat the water and a minimum of three basins large enough for complete immersion of the utensils are required to wash, rinse and sanitize utensils or food-contact equipment.

*c. Sanitizers.* Chlorine bleach or another approved sanitizer shall be provided for warewashing sanitization and wiping cloths. An appropriate test kit shall be provided to check the concentration of the sanitizer used. The person in charge shall demonstrate knowledge in the determination of the correct concentration of sanitizer to be used.

*d. Wiping cloths.* Wiping cloths shall be stored in a clean, 100 ppm chlorine sanitizer solution or equivalent. Sanitizing solution shall be changed as needed to maintain the solution in a clean condition.

**31.12(4) Water.**

*a. Water supply.* An adequate supply of clean water shall be provided from an approved source. Water storage units and hoses shall be food grade and approved for use in storage of water. If not permanently attached, hoses used to convey drinking water shall be clearly and indelibly identified as to their use. Water supply systems shall be protected against backflow or contamination of the water supply. Backflow prevention devices, if required, shall be maintained and adequate for their intended purpose.

*b. Wastewater disposal.* Wastewater shall be disposed of in an approved wastewater disposal system sized, constructed, maintained and operated according to law.

**31.12(5) Premises.**

*a. Hand-washing container.* An insulated container with at least a two-gallon capacity with a spigot, basin, soap and dispensed paper towels shall be provided for hand washing. The container shall be filled with hot water.

*b. Floors, walls and ceilings.* If required, walls and ceilings shall be of tight design and weather-resistant materials to protect against the elements and flying insects. If required, floors shall be constructed of tight wood, asphalt, rubber or plastic matting or other cleanable material to control dust or mud.

*c. Lighting.* Adequate lighting shall be provided. Lights above exposed food preparation areas shall be shielded.

*d. Food preparation surfaces.* All food preparation or food contact surfaces shall be of a safe design, smooth, easily cleanable and durable.

*e. Garbage containers.* An adequate number of cleanable containers with tight-fitting covers shall be provided both inside and outside the establishment.

*f. Toilet rooms.* An adequate number of approved toilet and hand-washing facilities shall be provided at each event.

*g. Clothing.* Personal clothing and belongings shall be stored at a designated place in the establishment, adequately separated from food preparation, food service and dishwashing areas.

These rules are intended to implement Iowa Code section 137E.7.

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<sup>1</sup> NOTE: Rules 30—33.1(159) to 30—33.4(159) and 30—34.1(159) to 30—34.4(159) transferred to Inspections and Appeals Department[481] and rescinded.

CHAPTER 41  
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

**481—41.1(135H) Definitions.**

“*Nurse practitioner*” means a registered professional nurse who is currently licensed to practice in the state, who meets state requirements and is currently licensed to practice nursing under the nursing board[655] rules in the Iowa Administrative Code.

“*Physician*” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy under Iowa Code chapter 148, 150 or 150A.

“*Physician assistant*” means a person licensed to practice under Iowa Code chapter 148C.

“*Psychiatric services*” means services provided under the direction of a physician which address mental, emotional, medical or behavioral problems.

“*Resident*” means a person who is less than 21 years of age and has been admitted by a physician to a psychiatric medical institution for children.

**481—41.2(135H) Application for license.** In order to obtain an initial license for a PMIC, the applicant must comply with Iowa Code chapter 135H and the rules in this chapter. Each applicant must submit the following documents to the department:

1. A completed Psychiatric Medical Institutions for Children application;
2. A copy of a department of human services license as a comprehensive residential care facility issued pursuant to Iowa Code section 237.3(2)“a,” or a copy of a license granted by the department of public health pursuant to Iowa Code section 125.13, as a facility which provides substance abuse treatment;

3. A floor plan of each floor of the facility on 8½” by 11” paper showing:

Room areas in proportion,  
Room dimensions,  
Numbers for all rooms including bathrooms,  
A designation of use for each room, and  
Window and door locations;

4. A photograph of the front and side elevation of the facility;

5. The PMIC license fee; and

6. Evidence of:

Accreditation by the joint commission on accreditation of health care organizations (JCAHO);

Department of public health certificate of need;

Department of human services determination of approval; and

Three years under the direction of an agency which has operated a facility:

- Licensed under Iowa Code section 237.3(2)“a,” or
- Providing services exclusively to children or adolescents and the facility meets or exceeds the requirements for licensure under Iowa Code section 237.3(2)“a.”

This rule is intended to implement Iowa Code sections 135H.4 and 135H.5.

**481—41.3(135H) Renewal application or change of ownership.** In order to renew a license or change ownership of the psychiatric medical institution for children, the applicant must submit to the department:

1. A completed application form 30 days before the renewal date or before the date of the ownership change;

2. The PMIC license fee; and

3. A copy of any revisions to the department of human services application for a comprehensive care residential facility license.

**41.3(1) Denial, suspension or revocation of a license.** The department may deny, suspend or revoke a PMIC license for any of the following reasons:

- a. The applicant or licensee failed to comply with the rules in this chapter;

- b. A resident is a victim of cruelty or neglect because of the acts or omissions of the licensee;

- c.* The licensee permitted, aided or abetted in the commission of an illegal act in the institution; or
- d.* The applicant or licensee attempted to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.

The department will issue notice of denial, suspension or revocation by certified mail or by personal service.

**41.3(2) Appeal process.** When a license is denied, revoked or suspended, a hearing may be requested pursuant to 481—subrule 50.5(2) and shall be conducted pursuant to rule 481—50.6(10A). During the appeal process, the status of a license shall remain as it was on the date the hearing was requested. The status shall not change until a final decision is rendered by the department.

This rule is intended to implement Iowa Code sections 135H.8 and 135H.9.

**481—41.4(135H) Licenses for distinct parts.** Separate licenses may be issued for clearly identifiable parts of a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1. A distinct part must contain contiguous rooms in a separate wing or building or be on a separate floor of the facility. Distinct parts shall provide care and services of separate categories. The following requirements shall be met for licensing a distinct part:

**41.4(1)** The distinct part shall serve only children who require the category of care and services immediately available within that part.

**41.4(2)** The distinct part shall meet all the standards, rules and regulations which pertain to the category for which a license is sought.

**41.4(3)** The distinct part must be operationally and financially feasible.

**41.4(4)** A separate personal care staff with qualifications appropriate to the care and services offered must be regularly assigned and working in the distinct part under responsible management.

**41.4(5)** Separately licensed distinct parts may have some services such as management, building maintenance, laundry and dietary in common with each other.

**481—41.5(135H) Variances.** Variances from these rules may be granted by the director of the department:

1. When the need for a variance has been established; and
2. When there is no danger to the health, safety, welfare or rights of any child.

The variance will apply only to a specific PMIC.

Variances shall be reviewed at the time of each licensure survey by the department to determine continuing need.

**41.5(1)** To request a variance, the licensee must:

- a.* Apply in writing on a form provided by the department;
- b.* Cite the rule or rules from which a variance is desired;
- c.* State why compliance with the rule or rules cannot be accomplished;
- d.* Explain how the variance is consistent with the individual program plans; and
- e.* Demonstrate that the requested variance will not endanger the health, safety, welfare or rights of any child.

**41.5(2)** Upon receipt of a request for variance, the director shall:

- a.* Examine the rule from which the variance is requested;
- b.* Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the children; and
- c.* Examine the effect of the requested variance on the health, safety or welfare of the children.

**481—41.6(135H) Notice to the department.**

**41.6(1)** The department shall be notified at the times stated when the following events are expected to occur:

- a.* Thirty days before addition, alteration or new construction is begun in the PMIC or on the premises;
- b.* Thirty days in advance of closure of the PMIC;

- c. Within two weeks of any change of administrator; and
- d. Within 30 days when a change in the category of license is sought.

**41.6(2)** Prior to the purchase, transfer, assignment or lease of a PMIC the licensee shall:

- a. Inform the department in writing of the pending sale, transfer, assignment or lease of the facility;
- b. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee or lessee at least 30 days before the sale, transfer, assignment or lease is complete;
- c. Submit written authorization to the department permitting the department to release information of whatever kind from department files concerning the licensee's PMIC to the named prospective purchaser, transferee, assignee or lessee.

**481—41.7(135H) Inspection of complaints.** The department shall conduct a preliminary review of all complaints filed against a PMIC. Unless a complaint is determined to be intended as harassment or to be without reasonable basis, the department shall inspect the PMIC within 20 working days of receipt of the complaint.

This rule is intended to implement Iowa Code section 135H.12.

**481—41.8(135H) General requirement.** Inpatient psychiatric services for recipients under age 21 must be provided under the direction of a physician.

When a resident has received services immediately before reaching age 21, services must be complete before the earlier of the following:

1. The date the recipient no longer requires services; or
2. The date the recipient reaches age 22.

**481—41.9(135H) Certification of need for services.** All recipients of services shall have written certification which ensures the following:

1. Ambulatory care resources available in the community do not meet the treatment needs of the recipient;
2. Proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and
3. The services can reasonably be expected to improve the recipient's condition or prevent further regression so services will no longer be needed.

Certification of need shall be completed by the team described in subrules 41.13(2) and 41.13(3). Certification must be made at the time of admission by an independent team for Medicaid recipients. For emergency admissions, the certification must be made by the team described in 41.13(135H) within 14 days after admission. If an individual applies for Medicaid while in a PMIC, certification of need must be made by the team described in 41.13(135H) before a Medicaid agency authorizes payment.

**481—41.10(135H) Active treatment.** Inpatient psychiatric services must involve "active treatment," which means implementation of a professionally developed and supervised individual plan of care as described in rule 41.12(135H). The plan of care shall be:

1. Developed and implemented no later than 14 days after admission; and
2. Designed to achieve discharge from inpatient status at the earliest possible time.

**481—41.11(135H) Individual plan of care.** "Individual plan of care" means a written plan developed for each child. The plan of care shall be designed to improve the condition of each child to the extent that inpatient care is no longer necessary.

**41.11(1)** The plan of care must be based on a diagnostic evaluation that includes examination of the:

- a. Medical,
- b. Psychological,
- c. Social,
- d. Behavioral, and
- e. Developmental aspects of the child's situation.

The plan of care shall reflect the need for inpatient psychiatric care.

**41.11(2)** The plan of care shall be developed by the team of professionals specified in rule 41.13(135H) in consultation with the recipient, the parents, legal guardian or other person into whose care the child will be released after discharge. The plan of care shall include:

- a. Diagnoses, symptoms, complaints and complications indicating the need for admission;
- b. Treatment objectives;
- c. An integrated program of therapies, activities and experiences designed to meet the objectives;
- d. A description of the functional level of the individual;
- e. Any orders for:
  - (1) Medications,
  - (2) Treatments,
  - (3) Restorative and rehabilitative services,
  - (4) Activities,
  - (5) Therapies,
  - (6) Social services,
  - (7) Diet, and
  - (8) Special procedures recommended for the health and safety of the patient; and
- f. At an appropriate time, postdischarge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school and community upon discharge.

**41.11(3)** The plan of care shall be reviewed every 30 days by the team referred to in rule 41.13(135H) to:

- a. Determine that services being provided are or were required on an inpatient basis; and
- b. Recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

This rule is intended to implement Iowa Code section 135H.3.

**481—41.12(135H) Individual written plan of care.** Before admission to a PMIC and before authorization for payment, the attending physician or staff physician must establish written plans for continuing care including review and modification of the plan of care.

**481—41.13(135H) Plan of care team.** The individual plan of care shall be developed by an interdisciplinary team of physicians and other personnel who are employed by the facility or provide services to patients.

**41.13(1)** Based on education and experience, the team must be capable of:

- a. Assessing the recipient's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities;
- b. Assessing the potential resources of the recipient's family;
- c. Setting treatment objectives; and
- d. Prescribing therapeutic modalities to achieve the plan's objectives.

**41.13(2)** The team shall include at least one member who is experienced in child psychiatry or child psychology and must include, as a minimum, either:

- a. A board-eligible or board-certified psychiatrist; or
- b. A clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or
- c. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnoses and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who has been certified by the state psychological association.

**41.13(3)** The team must also include one of the following:

- a. A psychiatric social worker;
- b. A registered nurse with specialized training or one year of experience in treating mentally ill individuals;

c. A licensed occupational therapist who has specialized training in treating mentally ill individuals; or

d. A psychologist who has a master's degree in clinical psychology or who has been certified by the state psychological association.

This rule is intended to implement Iowa Code section 135H.3.

**481—41.14(135H) Required discharge.** The licensee shall not refuse to discharge a child when directed by the physician, parent or legal guardian unless so directed by the court.

**481—41.15(135H) Criminal behavior involving children.** A person who has a record of a criminal conviction or a founded child abuse or dependent adult abuse shall not be licensed to operate, be employed by, or reside in a PMIC unless an evaluation of the crime or founded child or dependent adult abuse has been made by the department of human services which concludes that the crime or founded child or dependent adult abuse does not merit prohibition of employment.

**41.15(1)** A PMIC shall request that the department of human services (DHS) conduct a criminal and child abuse record check, when a person is being considered for licensure or for employment if the person will:

- a. Have direct responsibility for a child;
- b. Have access to a child when the child is alone; or
- c. Reside in the facility.

**41.15(2)** A PMIC shall inform all new applicants for employment of the requirement for the criminal and child abuse record checks and the possibility of a dependent adult abuse record check. The PMIC shall obtain, from the applicant, a signed acknowledgment of the receipt of this information.

**41.15(3)** A PMIC shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

**41.15(4)** DHS will inform the PMIC of the results of the criminal, child abuse, and dependent adult abuse record checks. If a record of a criminal conviction or founded child or dependent adult abuse exists, the PMIC will be informed on Form 470-2310, "Record Check Evaluation." The subject of the report shall complete that form and it shall be returned to DHS to request evaluation of the record to determine whether prohibition of the person's licensure, employment, or residence is warranted.

**41.15(5)** If the evaluation is not requested or if the DHS determines that the person has committed a crime or has a record of founded child abuse or dependent adult abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed to operate, be employed by, or reside in a PMIC.

This rule is intended to implement Iowa Code section 135H.7.

**481—41.16(22,135H) Confidential or open information.** The department maintains files for psychiatric medical institutions for children. These files are organized by facility name and contain both open and confidential information.

**41.16(1)** Open information includes:

- a. License application and status;
- b. Variance requests and responses;
- c. Final findings of state license survey investigations;
- d. Records of complaints;
- e. Plans of correction submitted by the facility;
- f. Medicaid status; and
- g. Official notices of license sanctions.

**41.16(2)** Confidential information includes:

a. Inspection or investigation information which does not comprise a final finding. This information may be made public in a proceeding concerning the denial, suspension or revocation of a license, under Iowa Code section 135H.8;

- b. Names of all complainants; and
- c. Names of children in all facilities, identifying information and the address of anyone other than an owner.

This rule is intended to implement Iowa Code sections 22.11, 135H.11 and 135H.13.

**481—41.17(135H) Additional provisions concerning physical restraint.** If a PMIC uses a physical restraint, the following provisions shall apply:

**41.17(1)** No employee shall use any prone restraints. For the purposes of this rule, “prone restraints” means those in which an individual is held face down on the floor. Employees who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint.

**41.17(2)** No employee shall use any restraint that obstructs the airway of any resident.

**41.17(3)** If an employee physically restrains a resident who uses sign language or an augmentative mode of communication as the resident’s primary mode of communication, the resident shall be permitted to have the resident’s hands free of restraint for brief periods, unless an employee determines that such freedom appears likely to result in harm to self or others.

This rule is intended to implement Iowa Code sections 135H.4 and 135H.5.

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This chapter is intended to implement Iowa Code chapters 17A, 22 and 135H.

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## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the "umbrella" of the Department of Natural Resources.

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CHAPTER 16  
REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE  
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**567—16.1(272D,261) Purpose and use.** This chapter is intended to help collect liabilities of the state or a state agency from persons who have licenses with the commission or department. This chapter shall apply to all licenses issued, renewed or otherwise authorized by the department or the commission.  
[ARC 8843B, IAB 6/16/10, effective 7/21/10]

**567—16.2(272D,261) Definitions.** For purposes of this chapter, the following definitions shall apply:  
“*Certificate of noncompliance*” means a document provided by the collecting agency certifying the named person has outstanding liability placed with the collecting agency and has not entered into an approved payment plan to pay the liability.

“*Collecting agency*” means the centralized collection unit of the department of revenue or the Iowa college student aid commission.

“*Commission*” means the environmental protection commission.

“*Department*” means the department of natural resources.

“*Liability*” means a debt or obligation placed with the collecting agency for collection that is greater than \$1,000. For purposes of this chapter, “liability” does not include child support payments collected pursuant to Iowa Code chapter 252J.

“*License*” means a license, certification, registration, permit, approval, renewal or other similar authorization issued to a person by the department which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation, including those authorizations set out in Iowa Code chapters 455A, 455B, 455C, 455D, 456A, 459, and 459A.

“*Licensee*” means a person to whom a license has been issued by the department or who is seeking the issuance of a license from the department.

“*Notice of intent*” means a notice sent to a licensee indicating the department’s intent to suspend, revoke, or deny renewal or issuance of a license.

“*Obligor*” means a person with a liability placed with the collecting agency.

“*Person*” means a licensee.

“*Withdrawal of a certificate of noncompliance*” means a document provided by the collecting agency certifying that the certificate of noncompliance is withdrawn and that the department may proceed with issuance, reinstatement, or renewal of a person’s license.

[ARC 8843B, IAB 6/16/10, effective 7/21/10]

**567—16.3(272D,261) Requirements of the department.**

**16.3(1) Records.**

a. The department shall collect and maintain records of its licensees that must include, at a minimum, the following:

- (1) The licensee’s first and last names.
- (2) The licensee’s current known address.
- (3) The licensee’s social security number.

b. The records shall be made available to the collecting agency so that the collecting agency may match to the records the names of persons with any liabilities placed with the collecting agency for collections. The records must be submitted in an electronic format and updated on a quarterly basis.

**16.3(2) Certificate of noncompliance.** Upon receipt of a certificate of noncompliance from the collecting agency, the department shall initiate rules and procedures for the suspension, revocation, or denial of issuance or renewal of a license to a person.

**16.3(3) Notice of intent.** The department shall provide to a person a notice of intent to suspend, revoke or deny issuance or renewal of the person’s license in accordance with Iowa Code chapter 272D or Iowa Code section 261.126, whichever is appropriate. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall state all of the following:

- a. That the department has received a certificate of noncompliance from the collecting agency and intends to suspend, revoke or deny issuance or renewal of a person's license;
- b. That the person must contact the collecting agency to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;
- c. That the department will revoke, suspend or deny issuance or renewal of the person's license unless a withdrawal of a certificate of noncompliance is received from the collecting agency within 30 days from the date of the notice of intent;
- d. That in the event the department's rules and procedures conflict with the additional rules and procedures under this chapter, the rules and procedures of this chapter shall apply;
- e. That mistakes of fact in the amount of the liability owed and the person's identity may not be contested to the department; and
- f. That the person may request a district court hearing as outlined in rule 701—153.10(272D).

**16.3(4) *Withdrawal.*** Upon receipt of a withdrawal of a certificate of noncompliance from the collecting agency, the department shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the department's requirements.

[ARC 8843B, IAB 6/16/10, effective 7/21/10]

**567—16.4(272D,261) No administrative appeal of the department's action.** Pursuant to Iowa Code sections 261.126 and 272D.8, a person does not have a right to a hearing before the department to contest the department's action under this chapter but may request a court hearing pursuant to rule 567—16.5(272D,261).

[ARC 8843B, IAB 6/16/10, effective 7/21/10]

**567—16.5(272D,261) District court hearing.** A person may seek review of the actions listed in 701—subrule 153.14(1) and request a hearing before the district court by filing an application with the district court in the county in which the majority of the liability was incurred. The person must send a copy of the application to the collecting agency by regular mail. The application must be filed no later than 30 days after the department issues its notice of intent.

**16.5(1) *Scheduling.*** The clerk of the district court shall schedule a hearing and mail a copy of the scheduling order to the person, the collecting agency, and the department.

**16.5(2) *Certification.*** Prior to the hearing, the collecting agency shall certify to the court a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the department shall certify to the court a copy of the notice issued pursuant to subrule 16.3(3).

**16.5(3) *Stay.*** Upon receipt of a copy of a scheduling order from the clerk of court and prior to the hearing, the department shall stay any action contemplated on the person's license pursuant to the notice of intent.

**16.5(4) *Hearing.*** The hearing on the person's application shall be scheduled and held within 30 days of the filing of the application. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the department shall continue its procedures pursuant to the notice of intent.

**16.5(5) *Scope of review.*** The district court's review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

**16.5(6) *Findings.*** If the court finds the collecting agency was in error either in issuing a certificate of noncompliance or in its failure to issue a withdrawal of a certificate of noncompliance, the collecting agency shall issue a withdrawal of a certificate of noncompliance to the department. If the court finds the collecting agency was justified in issuing a certificate of noncompliance or in not issuing a withdrawal of a certificate of noncompliance, a stay imposed under subrule 16.5(3) shall be lifted and the department shall proceed with the action as outlined in its notice of intent.

[ARC 8843B, IAB 6/16/10, effective 7/21/10]

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

[Filed ARC 8843B (Notice ARC 8597B, IAB 3/10/10), IAB 6/16/10, effective 7/21/10]

CHAPTERS 17 to 19  
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CHAPTER 210  
BEAUTIFICATION GRANT PROGRAM

**567—210.1(455E) Beautification grant program.** A beautification grant program is established in the department, with funds provided pursuant to 2009 Iowa Code Supplement section 455E.11(2) “a”(1) as amended by 2010 Iowa Acts, House File 2525, section 24. Each fiscal year for the fiscal period beginning July 1, 2010, and ending June 30, 2014, not more than \$200,000 will be awarded to one entity that meets the eligibility criteria pursuant to rule 567—210.5(455E).

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.2(455E) Purpose.** The purpose of the program is to provide financial assistance to a single eligible entity for the development and implementation of a public education and awareness initiative designed to reduce littering and illegal dumping. In addition, the successful applicant must use the moneys to establish a community partnership grant program designed to support community beautification projects, including the deconstruction, renovation, or removal of derelict buildings.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.3(455E) Role of the department.** The department is responsible for administering the program and for determining how the funds will be disbursed.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.4(455E) Applications; submission deadlines.** Applications shall be submitted on a form provided by the department. With the exception of the fiscal year commencing July 1, 2010, applications shall be submitted no later than the April 1 that precedes the beginning of the fiscal year for which the funding is requested. For the fiscal year commencing July 1, 2010, applications shall be submitted no earlier than May 19, 2010, and not later than June 30, 2010.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.5(455E) Eligibility.**

**210.5(1)** To be eligible for the beautification grant program, an applicant must have done all of the following:

- a. Assisted communities and organizations in cleanup and beautification projects;
- b. Conducted research to assist in the understanding of reasons for littering and illegal dumping;
- c. Administered antilittering and beautification education programs; and
- d. Increased public awareness of the costs of littering and illegal dumping.

**210.5(2)** To demonstrate that the applicant meets the eligibility criteria, the application must include documentation that shows how the applicant has conducted activities through past or current initiatives for each listed criterion.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.6(455E) Evaluation of applications.** The department will evaluate all eligible grant applications submitted in the manner prescribed in the application. In the selection of an applicant for funding, emphasis will be placed on the success and impact of the initiatives set forth in rule 567—210.5(455E) as documented in the application. Eligible applicants must be in compliance with all applicable state and federal statutes and rules.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.7(455E) Rejection of applications.** The department may reject an application for reasons that include, but are not limited to:

1. The applicant does not meet eligibility requirements pursuant to rule 567—210.5(455E).
2. The applicant does not provide sufficient information requested in the application.
3. The activities proposed in the application are not consistent with the goals of the program.
4. Funds are insufficient to award the grant.
5. The applicant has not met the contractual obligations of previous department grant awards.

6. The department received the application after the deadline set forth in rule 567—210.4(455E). [ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.8(455E) Reduced award.** The department reserves the right to offer a grant in an amount less than the amount requested by the applicant if it is determined that the applicant could implement the eligible project at a reduced level of funding and achieve the eligible project objectives and purpose of this program.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.9(455E) Fund disbursement limitations.**

**210.9(1) Prerequisites.** No funds shall be disbursed until the department has:

- a. Determined the total estimated cost of the eligible project;
- b. Received confirmation that all required permits or permit amendments have been obtained by the grant recipient as appropriate;
- c. Received a commitment from the grant recipient to implement the eligible project; and
- d. Executed a written agreement with the grant recipient.

**210.9(2) Public education and awareness initiative limit.** Not more than 50 percent of the moneys awarded shall be used for the public education and awareness initiative described in rule 567—210.2(455E).

**210.9(3) Community partnership program limit.** Not more than 50 percent of the moneys awarded shall be used for the community partnership program described in rule 567—210.2(455E). The only eligible community partners under this program are cities of 5,000 or fewer in population.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.10(455E) Eligible costs.**

**210.10(1)** Applicants may request financial assistance in the implementation and operation of eligible projects, which includes, but is not limited to, funds for the purpose of:

- a. Development, printing and distribution of educational materials;
- b. Planning and implementation of educational forums including, but not limited to, workshops;
- c. Expenses directly related to the development, implementation and operation of eligible projects, including administration; and
- d. Research and laboratory analysis costs and engineering or consulting fees.

**210.10(2)** Additional eligible costs for community partnership programs. For the community partnership program described in rule 567—210.2(455E), eligible costs may also include, but are not limited to:

- a. Asbestos abatement and removal.
- b. The recovery and processing of recyclable or reusable material from derelict buildings.
- c. Reimbursement for purchased recycled content materials used in the renovation of buildings.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.11(455E) Ineligible costs.** Grant funds shall not be provided or used for costs including, but not limited to, the following:

1. Taxes.
2. Vehicle registration.
3. Legal costs.
4. Contingency funds.
5. Proposal preparation.
6. Contractual project administration.
7. Land acquisition.
8. Office furniture, office computers, fax machines and other office furnishings and equipment.
9. Costs for which payment has been or will be received under another federal, state or private financial assistance program.

10. Costs incurred before a written agreement between the applicant and the department has been executed.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

**567—210.12(455E) Written agreement and reporting.**

**210.12(1) *Written agreement.*** The grant recipient shall enter into an agreement with the department for the purposes of implementing the eligible projects and activities for which financial assistance has been awarded. The agreement shall be signed by an authorized representative of the department and the authorized officer of the grant recipient.

**210.12(2) *Report.*** As a condition of the grant award, the grant recipient shall submit a written report to the department by July 31 following the end of the fiscal year for which the financial assistance was awarded. In addition to any other information required by the agreement, the report shall include information detailing the expenditure of all moneys received by the organization under this agreement and the results achieved through the expenditure of the moneys. Final reports are considered part of the public record.

**210.12(3) *Termination.*** The department may terminate the agreement and seek the return of any funds released under the agreement for failure of the grant recipient to perform pursuant to the terms and conditions of the agreement.

**210.12(4) *Amendments.*** Amendments to the agreement may be adopted by mutual written consent by the department and the grant recipient.

These rules are intended to implement 2009 Iowa Code Supplement section 455E.11(2) “a”(1) as amended by 2010 Iowa Acts, House File 2525, section 24.

[ARC 8844B, IAB 6/16/10, effective 5/19/10]

[Filed Emergency ARC 8844B, IAB 6/16/10, effective 5/19/10]



## **PUBLIC HEALTH DEPARTMENT[641]**

Rules of divisions under this department “umbrella” include Substance Abuse[643], Professional Licensure[645], Dental Examiners[650], Medical Examiners[653], Nursing Board[655] and Pharmacy Examiners[657]

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[Prior to 7/29/87, see Health Department[470] Ch 25]

**641—25.1(105) Adoption.** Section 101 except as noted below and Chapters 2 to 16 of the Uniform Plumbing Code, 2009 Edition, as published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789-2825, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4.

Exception to Section 101: Delete “, except as provided for in Section 103.5.5.2” from the end of subsection 101.5.6.

[ARC 8860B, IAB 6/16/10, effective 7/21/10]

**641—25.2(105) Applicability.** The provisions of this code are applicable to the plumbing in buildings or on premises in Iowa.

[ARC 8860B, IAB 6/16/10, effective 7/21/10]

**641—25.3(105) Fuel gas piping.** Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, 2009 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

[ARC 8860B, IAB 6/16/10, effective 7/21/10]

**641—25.4(105) Amendments to the Uniform Plumbing Code.**

**25.4(1)** Section 412. Delete the section and Table 4-1 and insert the following text and table. Reprinted from the 2009 International Plumbing Code with permission of the International Code Council. All rights reserved.

**IPC 403.1 Minimum number of fixtures.** Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table IPC 403.1. Types of occupancies not shown in Table IPC 403.1 shall be considered individually by the code official. The number of occupants shall be determined by the International Building Code. Occupancy classification shall be determined in accordance with the International Building Code.

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>e, f</sup> (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 <sup>d</sup>	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		A-2 <sup>d</sup>	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		A-3 <sup>d</sup>	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>e, f</sup> (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1 (cont'd)	Assembly (cont'd)	A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink
3	Educational	E	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>e, f</sup> (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		See Section 411	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home patients <sup>b</sup>	1 per room <sup>c</sup>		1 per room <sup>c</sup>		1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care <sup>b</sup>	1 per 25		1 per 35		—	1 per 100	—
			Visitors, other than residential care	1 per 75		1 per 100		—	1 per 500	—
		I-3	Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
			Employees <sup>b</sup>	1 per 25		1 per 35		—	1 per 100	—
I-4	Adult day care and child care	1 per 15		1 per 15		1	1 per 100	1 service sink		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>e, f</sup> (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit

<b>TABLE IPC 403.1</b> <b>MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES<sup>a</sup></b> <b>(See Sections IPC 403.2 and IPC 403.3)</b>										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>e, f</sup> (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7 (cont'd)	Residential (cont'd)	R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-4	Residential care/assisted living facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	S-1 S-2	Structures for the storage of goods, warehouses, storehouses and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		See Section 411	1 per 1,000	1 service sink

- a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.
- b Toilet facilities for employees shall be separate from facilities for inmates or patients.
- c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e The minimum number of required drinking fountains shall comply with Table IPC 403.1 and Chapter 11 of the International Building Code.
- f Drinking fountains are not required for an occupant load of 15 or fewer.

**IPC 403.1.1 Fixture calculations.** To determine the occupant load of each sex, the total occupant load shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the occupant load of each sex in accordance with Table IPC 403.1. Fractional numbers resulting from applying the fixture ratios of Table IPC 403.1 shall be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy shall first be summed and then rounded up to the next whole number.

**Exception:** The total occupant load shall not be required to be divided in half where approved statistical data indicates a distribution of the sexes of other than 50 percent of each sex.

**IPC 403.1.2 Family or assisted-use toilet and bath fixtures.** Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 of the International Building Code are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.

**IPC 403.2 Separate facilities.** Where plumbing fixtures are required, separate facilities shall be provided for each sex.

**Exceptions:**

1. Separate facilities shall not be required for dwelling units and sleeping units.
2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or less.
3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 50 or less.

**IPC 403.3 Required public toilet facilities.** Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 403 for all users. Employees shall be provided with toilet facilities in all occupancies. Employee toilet facilities shall be either separate or combined employee and public toilet facilities.

**IPC 403.3.1 Access.** The route to the public toilet facilities required by Section IPC 403.3 shall not pass through kitchens, storage rooms or closets. Access to the required facilities shall be from within the building or from the exterior of the building. All routes shall comply with the accessibility requirements of the International Building Code. The public shall have access to the required toilet facilities at all times that the building is occupied.

**IPC 403.3.2 Location of toilet facilities in occupancies other than covered malls.** In occupancies other than covered mall buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

**Exception:** The location and maximum travel distances to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum travel distance are approved.

**IPC 403.3.3 Location of toilet facilities in covered malls.** In covered mall buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91 m). In covered mall buildings, the required facilities shall be based on total

square footage, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum travel distance to central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space. In covered mall buildings, where employees' toilet facilities are not provided in the individual store, the maximum travel distance shall be measured from the employees' work area of the store or tenant space.

**IPC 403.3.4 Pay facilities.** Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

**IPC 403.4 Signage.** Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility.

**IPC 410.1 Approval.** Drinking fountains shall conform to ASME A112.19.1M, ASME A112.19.2M or ASME A112.19.9M and water coolers shall conform to ARI 1010. Drinking fountains and water coolers shall conform to NSF 61, Section 9. Where water is served in restaurants, drinking fountains shall not be required. In other occupancies, where drinking fountains are required, water coolers or bottled water dispensers shall be permitted to be substituted for not more than 50 percent of the required drinking fountains.

**IPC 410.2 Prohibited location.** Drinking fountains, water coolers and bottled water dispensers shall not be installed in public restrooms.

**IPC 411.1 Approval.** Emergency showers and eyewash stations shall conform to ISEA Z358.1.

**IPC 411.2 Waste connection.** Waste connections shall not be required for emergency showers and eyewash stations.

**IPC 419.2 Substitution for water closets.** In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies.

**25.4(2)** Section 503.0. Delete the section.

**25.4(3)** Section 710.1. Add the following sentences to the end of the section:

The requirement for the installation of a backwater valve shall apply only when determined necessary by the authority having jurisdiction based on local conditions. When a valve is required by the authority having jurisdiction, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required.

**25.4(4)** Section 807.4. Delete the section and insert in lieu thereof the following:

807.4 No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.

**25.4(5)** Section 906.7. Change "two (2) inches (50.8 mm)" to "three (3) inches (76.2 mm)".

**25.4(6)** Section 1002.2. Delete Table 10-1 and insert in lieu thereof the following:

TABLE 10-1

## Horizontal Distance of Trap Arms

Trap Arm Size		Distance Trap to Vent			
Inches	Millimeters	Minimum		Maximum	
		Inches	Millimeters	Feet	Meters
1¼	32	2½	64	5	1.5
1½	40	3	76	6	1.8
2	50	4	102	8	2.4
3	80	6	152	12	3.7
4	100	8	203	12	3.7
> 4	> 100	2 × Diameter		12	3.7

Slope one-fourth (¼) inch per foot (20.9 mm/m)

**25.4(7)** Chapter 16. Delete Part I and insert in lieu thereof the following:

Wastewater intended for use in underground irrigation systems shall be treated in accordance with 567—Chapter 69, Private Sewage Disposal Systems. The irrigation system shall comply with 567—69.12(455B).

[ARC 8860B, IAB 6/16/10, effective 7/21/10]

**641—25.5(105) Backflow prevention with containment.** Cities with populations of 15,000 or greater as determined by the 1990 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, 2009 Edition.

**25.5(1) Definitions.** The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, 2009 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

*a. Administrative authority.* The administrative authority for this rule is the city council and its designees.

*b. Approved backflow prevention assembly for containment.* Approved backflow prevention assembly for containment means a backflow prevention assembly which is approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. The approval listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly shall also be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitary Engineering (ASSE) as having met the requirements of one of the standards listed below.

Standard	Product Covered
ANSI <sup>□</sup> /ASSE* 1013-2009	Reduced Pressure Principle Backflow Preventers
ANSI <sup>□</sup> /ASSE* 1015-2009	Double Check Backflow Prevention Assembly
ANSI <sup>□</sup> /ASSE* 1047-2009	Reduced Pressure Detector Backflow Preventer
ANSI <sup>□</sup> /ASSE* 1048-2009	Double Check Detector Assembly Backflow Preventer
ANSI <sup>□</sup> /AWWA <sup>†</sup> C510-07	Double Check Valve Backflow Prevention Assembly
ANSI <sup>□</sup> /AWWA <sup>†</sup> C511-07	Reduced-Pressure Principle Backflow Prevention Assembly

<sup>□</sup>American National Standards Institute, 1819 L Street NW, Washington, DC 20036

\*American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, OH 44145

<sup>†</sup>American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235

*c. Approved backflow prevention assembly for containment in a fire protection system.* Approved backflow prevention assembly for containment in a fire protection system means a backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL) in addition to the requirements of 25.5(1)“b.”

*d. Containment.* Containment is a method of backflow prevention which requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical.

*e. Customer.* Customer means the owner, operator or occupant of a building or property which has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

*f. Degree of hazard.* Degree of hazard means the rating of a cross connection or a water service which indicates if it has the potential to cause contamination (high hazard) or pollution (low hazard).

*g. Water service.* Depending on the context, water service is the physical connection between a public water system and a customer’s building, property or private water system, or the act of providing potable water from a public water system to a customer.

**25.5(2) Proposed water service.**

*a.* No person shall install, or cause to have installed, a water service to a building, property or private water system before the administrative authority has evaluated the proposed water service for degree of hazard.

*b.* The administrative authority shall require the submission of plans, specifications and other information deemed necessary for a building, property or private water system to which a water service is proposed. The administrative authority shall review the information submitted to determine if cross connections will exist and the degree of hazard.

*c.* The owner of a building, property or private water system shall install, or cause to have installed, an approved backflow prevention assembly for containment as directed by the administrative authority before water service is initiated.

*d.* Reconstruction of an existing water service shall be treated as a proposed water service for the purposes of rule 641—25.5(135).

**25.5(3) Existing water services.**

*a.* The administrative authority shall publish the standards which it uses to determine the degree of hazard for a water service. These shall be consistent with standards published by the Iowa department of public health.

*b.* Each customer shall survey the activities and processes which receive water from the water service and shall report to the administrative authority if cross connections exist and the degree of hazard.

*c.* The administrative authority may inspect the plumbing of any building, property and private water system which has a water service to determine if cross connections exist and the degree of hazard.

*d.* If, based on information provided through 25.5(3)“b” and “c,” the administrative authority determines that a water service may contaminate the public water supply, the administrative authority shall require that the customer install the appropriate backflow prevention assembly for containment.

*e.* If a customer refuses to install a backflow prevention assembly for containment when it is required by the administrative authority, the administrative authority may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.

**25.5(4) Backflow prevention assemblies for containment.**

*a.* Backflow prevention assemblies for containment shall be installed immediately following the water meter or as close to that location as deemed practical by the administrative authority.

*b.* A water service determined to present a high hazard shall be protected by an air gap or an approved reduced-pressure principle backflow prevention assembly.

*c.* A water service determined to present a low hazard shall be protected by an approved double check valve assembly or as in 25.5(4)“b.”

*d.* A water service to a fire protection system shall be protected from backflow in accordance with the recommendations of American Water Works Association Manual M14. Where backflow prevention

is required for a fire protection system, an approved backflow prevention assembly for containment in a fire protection system shall be used.

**25.5(5) Backflow incidents.**

*a.* The customer shall immediately notify the agency providing water service when the customer becomes aware that backflow has occurred in the building, property or private water system receiving water service.

*b.* The administrative authority may order that a water service be temporarily shut off when a backflow occurs in a customer's building, property or private water system.

[ARC 8860B, IAB 6/16/10, effective 7/21/10]

These rules are intended to implement Iowa Code chapter 105.

[Filed 12/3/81, Notice 9/2/81—published 12/23/81, effective 1/27/82]

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[Filed 9/14/01, Notice 8/8/01—published 10/3/01, effective 11/19/01]

[Filed ARC 8860B (Notice ARC 8703B, IAB 4/21/10), IAB 6/16/10, effective 7/21/10]



CHAPTER 529  
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY  
[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 5]

**761—529.1(327B) Motor carrier regulations.** The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, 2009, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

[ARC 7901B, IAB 7/1/09, effective 8/5/09; ARC 8837B, IAB 6/16/10, effective 7/21/10]

**761—529.2(327B) Registering interstate authority in Iowa.** Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

**761—529.3(327B) Waiver of rules.** In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

“*Special or emergency circumstances*” means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

These rules are intended to implement Iowa Code chapter 327B.

[Filed 7/15/75]

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[Filed ARC 8837B (Notice ARC 8668B, IAB 4/7/10), IAB 6/16/10, effective 7/21/10]

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**PROFESSIONAL LICENSURE DIVISION**

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