State of Iowa

Iowa Administrative Code Supplement

Biweekly
September 24, 2008

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Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

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(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

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CHAPTER 59
PHARMACY BENEFITS MANAGERS

191—59.1(510B) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code Supplement chapter 510B relating to the regulation of pharmacy benefits managers.

191—59.2(510B) Definitions. The terms defined in Iowa Code Supplement section 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, "Third-Party Administrators," and 191—Chapter 78, "Uniform Prescription Drug Information Card," of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

"Clean claim" means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

"Complaint" means a written communication expressing a grievance or an inquiry concerning a transaction between a pharmacy benefits manager and a pharmacy or pharmacist.

"Day" means a calendar day, unless otherwise defined or limited.

"Paid" means the day on which the check is mailed or the day on which the electronic payment is processed by the pharmacy benefits manager's bank.

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) Payments to the pharmacy or pharmacist for clean claims are considered to be overdue if not paid within 20 or 30 days, whichever is applicable. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy or pharmacist interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) Existing contracts between clients and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 20 or 30 days, whichever is applicable, when such contracts are renegotiated on or after January 1, 2009, but no later than December 31, 2009.

191—59.4(510B) Study. On or before December 31, 2009, the commissioner will examine the feasibility of requiring a 15-day payment schedule for electronically submitted claims. The examination shall include economic impact on pharmacy benefits managers, patients, and Iowa pharmacies.

191—59.5(510B) Complaints.

59.5(1) Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

a. Complaints from the pharmacy indicating the reason for the complaint and factual documentation to support the complaint;

b. Contact name, address and telephone number of the pharmacy benefits manager;

c. Contact name, address and telephone number of the pharmacy;

d. Prescription number;

e. Prescription reimbursement amount for disputed claim(s);

f. Disputed prescription claim payment date(s);

g. Plan benefits certificate.

59.5(2) A summary of all complaints as outlined in subrule 59.5(1) received by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended.

191—59.6(510B) Auditing practices.

59.6(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;

b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;

c. When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;

d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;

e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department;

g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

i. A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

j. The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008.

59.6(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

59.6(3) Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules 59.6(4) and 59.6(5).

59.6(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

59.6(5) If, following the final appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall already have in place a process for an independent third-party review of the final audit findings. As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review.

59.6(6) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor.

59.6(7) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

191—59.7(510B) Termination of pharmacy contracts.

59.7(1) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal.

59.7(2) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager due to any disagreement with the decision of the pharmacy benefits manager to deny or limit benefits to covered persons or due to any assistance provided to covered persons by the pharmacy or pharmacist in obtaining reconsideration of the decision of the pharmacy benefits manager.

59.7(3) Termination of contracts between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

59.7(4) If the pharmacy benefits manager has evidence that the pharmacy or pharmacist has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may immediately suspend the pharmacy or pharmacist from further performance under the contract provided written notice of termination is provided to the pharmacy or pharmacist.

59.7(5) Termination of a contract between a pharmacy benefits manager and a pharmacy or pharmacist or termination of a pharmacy or pharmacist from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy or pharmacist for services rendered before the contract of the pharmacy or pharmacist was terminated.

59.7(6) Independent third-party review of termination decision. The pharmacy or pharmacist may request an independent third-party review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy or pharmacist by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination decision.

These rules are intended to implement Iowa Code chapters 17A and 514L and Iowa Code Supplement chapter 510B.

[Filed 7/25/08, Notice 5/7/08—published 8/13/08, effective 9/17/08]*
[Editorial change: IAC Supplement 9/24/08]

*The September 17, 2008, effective date of subrules 59.6(3), 59.6(5) and 59.7(6) was delayed for 70 days by the Administrative Rules Review Committee at its meeting held September 9, 2008.

CHAPTER 13
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

193—13.1(17A,22) Definitions. As used in this chapter:

"Agency" in these rules means each board within the Iowa professional licensing and regulation bureau.

"Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" in these rules means each board within the Iowa professional licensing and regulation bureau.

"Personally identifiable information" in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means the whole or a part of a "public record," as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

"Record system" in these rules means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

193—13.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

193—13.3(17A,22) Requests for access to records.

13.3(1) *Location of record.* A request for access to a record should be directed to the board which owns or is in physical possession of the record. The request shall be directed to the appropriate board at 1920 S.E. Hulsizer, Ankeny, Iowa 50021. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

13.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday.

13.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by facsimile, E-mail, or other electronic means, or by telephone. Requests shall identify the particular record sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, and telephone number of the person requesting the information to facilitate the board's response, unless other arrangements are made to permit production to a person wishing to remain anonymous. A person shall not be required to give a reason for requesting an open record.

13.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 13.4(17A,22) in this chapter and other applicable provisions of law.

13.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

13.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

13.3(7) *Fees.*

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function. To the extent permitted by law, a search fee may be charged to the same rate as and under the same conditions as are applicable to supervisory fees.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

193—13.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 13.3(17A,22).

13.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

13.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a

delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

13.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

13.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

193—13.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

13.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

13.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question with those portions deleted for which such confidential record treatment has been requested. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

13.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

13.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

13.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify

any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

13.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

193—13.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the board at 1920 S.E. Hulsizer, Ankeny, Iowa 50021. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

193—13.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

This rule does not allow the subject of a record which is confidential under Iowa Code section 272C.6(4) to consent to its release.

193—13.8(17A,22) Disclosures without the consent of the subject.

13.8(1) Open records are routinely disclosed without the consent of the subject.

13.8(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 193—13.9(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. To other licensing authorities inside and outside Iowa as described in Iowa Code section 272C.6(4).

13.8(3) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code chapter 252J or 598.

13.8(4) Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code sections 261.126 and 261.127.

193—13.9(17A,22) Routine use. "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all board records:

13.9(1) Disclosure to those officers, employees, and agents of the board who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

13.9(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

13.9(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the board.

13.9(4) Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

13.9(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

13.9(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

13.9(7) Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlement filed in licensee disciplinary proceedings.

13.9(8) Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was open or closed.

13.9(9) Name and address of licensees, date of licensure, type of license, status of licensure and related information are routinely disclosed to the public upon request.

13.9(10) Name and license numbers of licensees are routinely disclosed to the public upon request.

193—13.10(17A,22) Consensual disclosure of confidential records.

13.10(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 193—13.7(17A,22).

13.10(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

193—13.11(17A,22) Release to subject.

13.11(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the agency need not release the following records to the subject:

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

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

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

d. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

e. Confidential personnel records of licensees and examination candidates. (Iowa Code section 22.7(11))

f. As otherwise authorized by law.

13.11(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

193—13.12(17A,22) Availability of records.

13.12(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

13.12(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Personal related information in confidential personnel records of board staff, board members and licensees. (Iowa Code section 22.7(11))

b. Personal related information in confidential personnel records of applicants for licensure. (Iowa Code section 22.7(11))

c. All information in complaint and investigation files maintained by the board for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing.

d. The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders.

e. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination. (Iowa Code sections 542.17, 542B.32, 543B.52, 544A.27, 544B.8)

f. Information relating to the contents of an examination for licensure. (Iowa Code sections 542.17, 542B.32, 543B.52, 544A.27, 544B.8)

g. Minutes and tapes of closed meetings of the board. (Iowa Code section 21.5(4))

h. Information or records received from a restricted source and any other information or records made confidential by law, such as academic transcripts or substance abuse treatment information.

i. References for examination or licensure applicants. (Iowa Code section 22.7(18))

j. Records which constitute attorney work products or attorney-client communications or which are otherwise privileged pursuant to Iowa Code sections 22.7, 272C.6(4), 622.10 or 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.

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

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

(1) Enable law violators to avoid detection;

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

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

13.12(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 13.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 13.4(3).

193—13.13(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 193—13.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information. Most records are stored on paper only, but information from paper records may also be stored in electronic form and some records may also be stored only in electronic form. Data regarding licensees is stored in a data processing system that permits the comparison of personally identifiable information in one record system with personally identifiable information in another system. Some information is also placed on the board Web site. The record systems maintained by the agency are:

13.13(1) Information in complaint and investigation files maintained by the board for purposes of licensee discipline. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, it may be released to the licensee once a disciplinary proceeding is commenced by the filing of formal charges and the notice of hearing. Only charges and final orders are maintained electronically.

13.13(2) Information on nonlicensee investigation files maintained by the board. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7(18) or other provision of law.

13.13(3) The following information regarding licensee disciplinary proceedings:

a. Formal charges and notices of hearing.

b. Complete records of open disciplinary hearings. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4).

c. Final written decisions, including informal stipulations and settlements.

13.13(4) Licensure. Records pertaining to licensure by examination may include:

a. Transcripts from education programs. This information is collected pursuant to Iowa Code sections 542.5, 542.8, 542B.13, 543B.15, 543D.9, 544A.8, 544B.9, and 544C.5.

b. Applications for examination. This information is collected pursuant to Iowa Code sections 542.4, 542.8, 542B.13, 543B.20, 543D.7, 544A.8, 544B.9, and 544C.5.

c. References. These may be requested from applicants pursuant to Iowa Code section 542B.13 or 544A.8.

d. Past criminal and disciplinary record. This information is collected pursuant to Iowa Code sections 542.5, 542B.13, 543B.15, 543D.12, 544A.27, 544B.9, and 544C.9.

e. Examination scores. This information is collected pursuant to Iowa Code sections 542.5, 542.8, 542B.14, 543B.20, 543D.8, 544A.8, 544B.9, and 544C.5.

f. Social security numbers of license applicants and licensees as required by Iowa Code section 252J.8(1).

13.13(5) In addition to the above records, records pertaining to licensure by reciprocity or comity may include:

a. Disciplinary actions taken by other boards. This information is collected pursuant to Iowa Code sections 542.10, 542B.21, 543B.15, 543D.10, 544A.8, 544B.15, and 544C.6.

b. Verification of licensure by another board. This information is collected pursuant to Iowa Code sections 542.8, 542.19, 542B.20, 543B.21, 543D.11, 544A.8, 544B.10, and 544C.6.

c. Verification of experience and other licensure qualifications.

13.13(6) Firm and business entity registrations and renewals. This information is collected pursuant to Iowa Code sections 542.7, 542.8, 543B.28, and 544A.21.

13.13(7) Renewal forms. This information is collected pursuant to Iowa Code sections 542.6, 542B.18, 543B.28, 543D.16, 544A.10, 544B.13, and 544C.3(5). Some renewal forms are only stored in data processing systems when licensees renew electronically.

13.13(8) Continuing education records. This information is collected pursuant to Iowa Code section 272C.2.

13.13(9) Trust account records. This information is obtained under the authority of Iowa Code section 543B.46, which may include records such as consents to audit trust accounts, transactional records, bank account and ledger records, examination reports, examiner exit interviews, correspondence and related records.

13.13(10) Errors and omissions insurance records. This information is obtained under the authority of Iowa Code section 543B.47.

193—13.14(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 193—13.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, the records listed in rule 13.13(17A,22) may contain information about individuals. All records are stored on paper and in automated data processing systems unless otherwise noted.

13.14(1) Rule-making records. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not generally stored in an automated data processing system, although rule-making dockets may also be found on the board's Web site.

13.14(2) Board records. Agendas, minutes, and materials presented to the board members in preparation for board meetings are available from the office of the board, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automated data processing system, although minutes and other information may be found on the board's Web site.

13.14(3) Publications. News releases, annual reports, project reports, agency newsletters, and other publications are available from the office of the board. Information concerning examinations and registration is available from the board office. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system, although some board publications may be found on the board's Web site.

13.14(4) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to subrule 13.12(2), paragraphs *"c"* and *"d."* These records may contain information about individuals collected under the authority of Iowa Code sections 542.10, 542B.21, 543B.29, 543D.17, 544A.13, 544B.15, and 544C.9.

13.14(5) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in the office of the agency. Policy manuals do not contain information about individuals.

13.14(6) Other records. All other records that are not exempted from disclosure by law.

13.14(7) Waivers and variances. Requests for waivers and variances, board proceedings and rulings on such requests, and reports prepared for the administrative rules committee and others.

13.14(8) Rule-making initiatives. All boards maintain both paper and electronic records on rule-making initiatives in accordance with Executive Order Numbers 8 and 9.

13.14(9) Personnel records of board staff and board members which may be confidential pursuant to Iowa Code section 22.7(11). The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files may include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship.

13.14(10) General correspondence, reciprocity agreements with other states, and cooperative agreements with other agencies.

13.14(11) Administrative records. These records include documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, and printing and supply requisitions.

13.14(12) Subdivided land filings and related correspondence collected pursuant to Iowa Code chapter 543C.

13.14(13) Time-share filings and related correspondence collected pursuant to Iowa Code chapter 557A.

13.14(14) All other records that are not confidential by law.

193—13.15(17A,22) Data processing systems. All data processing systems used by the board permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

193—13.16(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by a person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency which are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

193—13.17(17A,22) Notice to suppliers of information. When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

13.17(1) *License and examination applicants.* License and examination applicants are requested to supply a wide range of information depending on the qualifications for licensure or sitting for an examination, as provided by board statutes, rules and application forms. Failure to provide requested information may result in denial of the application. Some requested information, such as college transcripts, social security numbers, examination scores, and criminal histories, are confidential under state or federal law, but most of the information contained in license or examination applications is treated as public information, freely available for public examination.

13.17(2) *Home address.* License applicants and licensees are requested to provide both home and business addresses. Both are treated as open records. If a license applicant or licensee has a basis to shield a home address from public disclosure, such as a domestic abuse protective order, written notification should be provided to the board office. Absent a court order, the board may not have a basis under Iowa Code chapter 22 to shield the home address from public disclosure, but the board may refrain from placing the home address on its Web site and may notify the applicant or licensee before the home address is released to the public to provide an opportunity for the applicant or licensee to seek injunction.

13.17(3) *License renewal.* Licensees are requested to supply a wide range of information in connection with license renewal, including continuing education information, criminal history and disciplinary actions, as provided by board statutes, rules and application forms, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information, such as credit card numbers, may be confidential under state or federal law.

13.17(4) *Subdivided land/time-shares.* All disclosures and other documents filed with the real estate commission in connection with Iowa Code chapter 543C (subdivided land) or 557A (time-shares) is public information freely available for public examination.

13.17(5) *Investigations.* Licensees are required to respond to board requests for information involving the investigation of disciplinary complaints against licensees. Failure to timely respond may result in disciplinary action against the licensee to whom the request is made. Information provided in response to such a request is confidential pursuant to Iowa Code section 272C.6(4), but may become public if introduced at a hearing which is open to the public, contained in a final order, or filed with a court of judicial review.

These rules are intended to implement Iowa Code chapters 22, 252J and 261.

[Filed 8/22/01, Notice 6/27/01—published 9/19/01, effective 10/24/01]
[Filed 1/16/07, Notice 11/8/06—published 2/14/07, effective 3/21/07]
[Filed 9/2/08, Notice 5/7/08—published 9/24/08, effective 10/29/08]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Rules transferred from agency number [190] to [121] to conform with the reorganization numbering scheme in general, IAC Supp. 9/9/87.
Prior to 3/30/94, Campaign Finance Disclosure Commission [121]

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[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 4]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 4]

DIVISION I
ORGANIZATIONAL REQUIREMENTS

351—4.1(68A,68B) Requirement to file statement of organization (DR-1)—persons subject to requirements; financial thresholds; where to file; when due.

4.1(1) *Persons subject to requirement.* Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be either typewritten or printed legibly in black ink.

a. "Committee" defined. "Committee" includes the following:

(1) A "candidate's committee" that is the committee, even if the committee consists only of the candidate, designated by a candidate for a state or local office to receive contributions, make expenditures, or incur debts in excess of $750.

(2) A "political committee" (PAC) that is a committee exceeding the $750 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue. The board shall automatically classify as a political committee any political organization that loses its status as a political party because it fails to meet the requirements of Iowa Code section 43.2. The board shall automatically classify as a political committee any county central committee that operated under the former political party.

(3) A "state statutory political committee" (state party), "county statutory political party" (county central committee), or "city statutory political committee" (city central committee).

(4) A person that wishes to register a committee for purposes of using the short form "paid for by" attribution statement shall file Form DR-SFA pursuant to rule 351—4.11(68A).

b. When organization occurs; financial thresholds. At the latest, organization is construed to have occurred as of the date that the committee first exceeded $750 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

c. Permanent organizations temporarily engaging in political activity. The requirement to file the statement of organization applies to an entity that comes under the definition of a "political committee" (PAC) in Iowa Code Supplement section 68A.102(18) by receiving contributions, making expenditures, or incurring debts in excess of $750 in any one calendar year for the purpose of expressly advocating the election or defeat of a candidate for public office, or for the purpose of expressly advocating the passage or defeat of a ballot issue. A permanent organization that makes a one-time contribution in excess of $750 may in lieu of filing a statement of organization follow the procedure in rule 351—4.35(68A). A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

4.1(2) *Place of filing.* Statements of organization shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Statements may also be filed by fax at (515)281-3701 or filed electronically through the board's Web site at www.iowa.gov/ethics.

4.1(3) *Time of filing.* A statement of organization shall be filed with the board within ten days after the financial filing threshold in subrule 4.1(1) has been exceeded. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed statements must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

4.1(4) *Candidate defined.* For purposes of Iowa Code chapters 68A and 68B and the rules of the board, "candidate" means an individual who takes affirmative action to seek nomination or election to a state or local public office. For purposes of Iowa Code chapter 68A and any rules of the board on

campaigning for public office, "candidate" includes any judge or judicial employee who is required by law to stand for retention. "Takes affirmative action" includes making a public announcement of intention to seek nomination or election, making any expenditure or accepting any contribution for nomination or election, distributing petitions for signatures for nomination, filing nomination papers or an affidavit of candidacy, or being nominated by any convention process set out by law.

4.1(5) *Ballot issue defined.* "Ballot issue" means a question that has been approved by a political subdivision or the general assembly to be placed before the voters or is otherwise required by law to be placed before the voters. "Ballot issue" does not include the nomination, election, or defeat of a candidate.

This rule is intended to implement Iowa Code Supplement sections 68A.201 and 68A.401.

351—4.2(68A,68B) Information required: committee name.

4.2(1) *Full name required.* The statement of organization shall include the full name of the committee. A committee using an abbreviation or acronym as part of the committee name shall provide with the statement of organization a written explanation of the full word or words that are abbreviated or that form the acronym.

4.2(2) *Duplication of name prohibited.* The committee name shall not substantially duplicate the name of another committee organized under Iowa Code Supplement chapter 68A. The board shall determine whether two committee names are in substantial duplication in violation of Iowa Code Supplement section 68A.201(2)*"a."* A committee substantially duplicating the name of another organized committee shall choose a new committee name upon notification from the board. A candidate who files an amended statement of organization to reflect a change in office sought shall not be required to change the name of the candidate's committee unless the committee's name substantially duplicates the name of another organized committee.

4.2(3) *Candidate's surname required in committee name.* A candidate filing a statement of organization on or after July 1, 1995, shall include the candidate's surname within the committee name. This requirement also applies to a new candidate's committee organized by a candidate who has a preexisting candidate's committee but who organizes a new candidate's committee or files an amended statement of organization.

This rule is intended to implement Iowa Code Supplement section 68A.201.

351—4.3(68A,68B) Information required: committee purpose; party affiliation.

4.3(1) *Committee purpose.* An organized campaign committee shall identify the purpose of the committee on the statement of organization. The purpose shall be indicated in part by designating the committee as one of the following types of committees:

Type 1 - A candidate's committee for a statewide or legislative candidate or a judge standing for retention. This type of committee is referred to as a state candidate's committee.

Type 2 - A political committee that expressly advocates for or against candidates at the state level or expressly advocates for or against a statewide ballot issue. This type of committee is referred to as a statewide PAC.

Type 3 - A state statutory political committee. This type of committee is referred to as a state party.

Type 4 - A county statutory political committee. This type of committee is referred to as a county central committee.

Type 5 - A candidate's committee for a candidate seeking county office. This type of committee is referred to as a county candidate's committee.

Type 6 - A candidate's committee for a candidate seeking city office. This type of committee is referred to as a city candidate's committee.

Type 7 - A candidate's committee for a candidate seeking school board or other political subdivision office except for a county or city office. This type of committee is referred to as a school board or other political subdivision candidate's committee.

Type 8 - A political committee that expressly advocates for or against candidates for county office. This type of committee is referred to as a county PAC.

Type 9 - A political committee that expressly advocates for or against candidates for city office. This type of committee is referred to as a city PAC.

Type 10 - A political committee that expressly advocates for or against candidates for school board or other political subdivision except for county or city candidates. This type of committee is referred to as a school board or other political subdivision PAC.

Type 11 - A political committee that expressly advocates for the passage or defeat of a ballot issue, franchise election, or referendum conducted for a county, city, school, or other political subdivision ballot question. This type of committee is referred to as a local ballot issue committee.

4.3(2) *Party affiliation.* A candidate's committee is deemed to be established to expressly advocate the election of a candidate for public office. Each candidate's committee shall designate the political affiliation of the candidate. Any other committee shall designate that it is either established to expressly advocate the election or defeat of candidates or the passage or defeat of a ballot issue.

This rule is intended to implement Iowa Code Supplement section 68A.201.

351—4.4(68A,68B) Information required: officers; committee information; signatures.

4.4(1) *Committee officers.* The committee shall disclose on the statement of organization the name, mailing address, telephone number, and office of each committee officer. Each candidate's committee shall appoint a treasurer who shall be an Iowa resident and at least 18 years of age. A candidate's committee may also appoint a committee chairperson who is not limited by residency or age. Every other committee shall appoint a separate treasurer and chairperson, each of whom shall be at least 18 years of age. Except for a candidate's committee, every committee shall either have an Iowa resident as treasurer or shall maintain all of the committee's funds in bank accounts in a financial institution in Iowa.

4.4(2) *Committee address and telephone number.* The address and telephone number of the candidate as indicated on the statement of organization shall be the official address and telephone number to be used for communication from the board to the candidate's committee. The address and telephone number of the committee chairperson as indicated on the statement of organization shall be the official address and telephone number to be used for communication from the board to every other committee except for a candidate's committee. If an electronic mail address has been provided on the statement of organization, communication from the board to a committee shall be sent by electronic mail.

4.4(3) *Signatures.* The candidate and treasurer shall sign the statement of organization filed by a candidate's committee. The chairperson and treasurer shall sign a statement of organization filed by any other type of committee. A statement of organization filed electronically using the board's Web site is deemed signed when filed.

This rule is intended to implement Iowa Code Supplement section 68A.201.

351—4.5(68A,68B) Segregation and timely deposit of funds; information required: identification of financial institution, account name; notice to treasurer.

4.5(1) *Segregation and deposit of funds.* All committee funds shall be maintained in a financial institution and shall be segregated from any other funds held by a candidate, officer, member, or associate of the committee. The committee treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee.

4.5(2) *Exception from segregation of committee funds.* A candidate's committee that receives contributions only from the candidate is not required to maintain a separate account. A permanent organization temporarily engaging in activity that qualifies it as a political committee that uses existing general operating funds and does not solicit or receive funds from other sources for campaign purposes is not required to maintain a separate account.

4.5(3) *Identification of financial institution and account.* The committee shall disclose on the committee's statement of organization the name and mailing address of all financial institutions in which committee funds are maintained. The committee shall also disclose the name and type of all accounts in which committee funds are maintained, and the name of any such account shall be the same as the committee name on the statement of organization.

4.5(4) *Notice to treasurer.* Any person who receives contributions for a committee shall render the contributions to the treasurer within 15 days of receipt and provide the committee treasurer with the reporting information required by Iowa Code Supplement section 68A.203(2).

This rule is intended to implement Iowa Code Supplement sections 68A.201 and 68A.203.

351—4.6(68A,68B) Amendments to statement of organization; requirement for new statement of organization for new office sought.

4.6(1) *Amendment within 30 days.* If there is a change in any of the information disclosed on a statement of organization, the committee shall file an amended statement within 30 days of the change. An amended statement of organization shall be filed with the board and the board shall make available to the appropriate county commissioner of elections an amended statement filed by a county, city, school, or other political subdivision committee.

4.6(2) *New office sought.* A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate who has filed a statement of organization for one office and then exceeds the financial activity threshold as set forth in Iowa Code section 68A.102(5) for a new office shall, within ten days of exceeding the threshold, file either an amended statement of organization disclosing information for the new office sought or organize and register a new committee.

This rule is intended to implement Iowa Code Supplement section 68A.201.

DIVISION II
REPORTING AND FINANCIAL TRANSACTION REQUIREMENTS

351—4.7(68A,68B) Disclosure reporting required; information on initial report; minimum filing if no activity.

4.7(1) *Disclosure reporting required.* Every committee that has filed a statement of organization under Iowa Code section 68A.201 and rule 351—4.1(68A,68B) or has exceeded the financial activity threshold set out in Iowa Code section 68A.102(5) or (18) prior to the cutoff date for reporting campaign transactions shall file a campaign disclosure report pursuant to Iowa Code section 68A.402.

4.7(2) *Information on initial report.* The first disclosure report filed by a committee shall include the relevant financial information covering the period from the beginning of the committee's financial activity through the end of the current reporting period.

4.7(3) *Funds available from prior committee.* If funds are available to a candidate's committee from a prior candidacy of that candidate, or to a ballot issue committee from a prior effort on a ballot issue, and the prior candidacy or effort had not exceeded the financial reporting threshold, the carryover balance shall be disclosed by the new committee. The disclosure shall be made on Schedule A -Contributions and shall include the amount of the carryover, the date of the prior election, and the name and address of any source that made contributions to the candidacy or ballot effort that totaled more than $750 during the preceding three calendar years.

4.7(4) *Funds available from preballot issue activity.* Funds that are raised for an activity that is not included in the definition of a ballot issue in Iowa Code Supplement section 68A.102(1) and that are made available to a subsequent ballot issue committee shall be disclosed by the committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover balance, the date of the preballot issue activity, and the name and address of any source that made contributions to the activity that totaled more than $750 during the previous three calendar years.

4.7(5) *No financial activity during reporting period.* A committee that did not have any financial activity during the relevant reporting period for which a disclosure report is due shall be required to file only Form DR-2. However, if the committee had previously disclosed debts or loans, those obligations shall again be disclosed on either Schedule D - Incurred Indebtedness or Schedule F - Loans Received and Repaid, as appropriate, and the schedule or schedules shall be included with Form DR-2. A candidate's committee that has reportable campaign property under Iowa Code Supplement section 68A.304 shall

disclose the property on Schedule H - Campaign Property and the schedule shall be included with Form DR-2.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.8(68A,68B) Disclosure reporting required—where reports filed.

4.8(1) *Place of filing.* Disclosure reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-4073, as an E-mail attachment, or electronically through the board's Web site at www.iowa.gov/ethics.

4.8(2) *Reports made available.* The board shall post on its Web site at www.iowa.gov/ethics all statements and reports filed under Iowa Code chapter 68A.

4.8(3) *Records retention.* The board shall maintain and retain all statements and reports filed under Iowa Code chapter 68A under the applicable provisions of Iowa Code chapter 305.

This rule is intended to implement Iowa Code section 68A.401 as amended by 2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1.

351—4.9(68A) Campaign disclosure report due dates.

4.9(1) *Statewide office, general assembly, judge standing for retention.* A candidate's committee of a candidate for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 or Wednesday preceding primary election* through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 or Wednesday preceding general election* through December 31 of election year

b. Supplementary report.

Report due	Covering period
Friday preceding primary election*	May 15 through Tuesday preceding primary election*
Friday preceding general election*	October 15 through Tuesday preceding general election*

*If supplementary report required. See subrule 4.9(2).

c. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

d. Special election.

Report due	Covering period
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

This report is in addition to the election year reports required under paragraph 4.9(1)"a."*

4.9(2) *Statewide office or general assembly—supplementary reports.* In addition to reports required under subrule 4.9(1), a supplementary report is required if contributions received during the period beginning on the date of initial financial activity, or the day after the period covered by the last report, as applicable, through the Tuesday preceding the primary or general election equal or exceed the following thresholds:

Office sought	Contribution threshold
Governor	$10,000 or more
Other statewide office	$5,000 or more
General assembly	$1,000 or more

4.9(3) *County candidate.* A candidate's committee of a candidate for county office shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

Report due	Covering period
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

This report is in addition to the election year reports required under paragraph 4.9(3)"a."*

4.9(4) *City candidate.* A candidate's committee of a candidate for city office shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before the runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

*If a runoff election is held.

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

Report due	Covering period
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

This report is in addition to the election year reports required under paragraph 4.9(4)"a."*

4.9(5) *School board or other political subdivision.* A candidate's committee of a candidate for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

Report due	Covering period
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

This report is in addition to the election year reports required under paragraph 4.9(5)"a."*

4.9(6) *State statutory political committee (state political party).* A committee defined in Iowa Code Supplement section 68A.102(22) as a state statutory political committee shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(7) *County statutory political committee (county central committee).* A committee defined as a county statutory political committee in Iowa Code Supplement section 68A.102(12) shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(8) *State political committee (state PAC).* A political committee expressly advocating the nomination, election, or defeat of candidates for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

Report due	Covering period
July 19	January 1 through June 30
January 19 (next calendar year)	July 1 through December 31

4.9(9) *County political committee (county PAC).* A political committee expressly advocating the nomination, election, or defeat of candidates for county office shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(10) *City political committee (city PAC).* A political committee expressly advocating the nomination, election, or defeat of candidates for city office shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

*If a runoff election is held.

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(11) *School board or other political subdivision political committee (school board or other local PAC).* A political committee expressly advocating the nomination, election, or defeat of candidates for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(12) *Statewide or local ballot issue committee (ballot issue PAC).* A committee expressly advocating the passage or defeat of a statewide or local ballot issue shall file campaign disclosure reports as follows:

a. Election year.

Report due	Covering period
Five days before election	Date of initial activity or previous report through ten days before election
May 19	Date of initial activity or previous report through May 14
July 19	Date of initial activity or previous report through July 14
October 19	Date of initial activity or previous report through October 14
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

b. Nonelection year.

Report due	Covering period
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(13) *Permanent organizations.* A permanent organization temporarily engaging in political activity as described in Iowa Code Supplement section 68A.102(18) shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The committee shall file reports on the applicable due dates as required by this rule. The reports shall identify the source of the original funds used for a contribution made to a candidate or a candidate's committee. When the permanent organization ceases to be involved in the political activity, the permanent organization shall dissolve the political committee. "Permanent organization" means an organization that is continuing, stable, and enduring, and was originally organized for purposes other than engaging in election activities.

4.9(14) *Election year defined.* "Election year" means a year in which the name of the candidate or ballot issue appears on a ballot to be voted on by the electors of the state of Iowa. For state and county statutory political committees, "election year" means a year in which primary and general elections are held.

This rule is intended to implement Iowa Code section 68A.402.

351—4.10(68A,68B) Time of filing. A report must be physically received by the board or, if mailed, shall bear a United States Postal Service postmark dated on or before the report due date. Faxed, E-mailed, or electronically filed reports must be submitted on or before 11:59 p.m. of the report due date. However, as provided in Iowa Code Supplement section 68A.402 as amended by 2008 Iowa Acts, Senate File 2400, sections 24 and 28, any report that is required to be filed five days or less prior to an election must be physically received by the board prior to 4:30 p.m. on the report due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the first working day when the board office is open.

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by 2008 Iowa Acts, Senate File 2400, sections 24 and 28.

351—4.11(68A) Voluntary registration—Form DR-SFA.

4.11(1) *Persons voluntarily registering a committee.* A person that has not exceeded the $750 financial filing threshold may file Form DR-SFA for purposes of using the short form "paid for by" attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). A person using the short form "paid for by" attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form "paid for by" attribution statement.

4.11(2) *$750 threshold later exceeded.* A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the $750 threshold is later exceeded. A person that later exceeds the $750 threshold and that fails to timely file a statement of organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

This rule is intended to implement Iowa Code sections 68A.201 and 68A.405.

351—4.12(68A,68B) Exception from reporting requirement—reports due within five days of one another. When two disclosure reports are due from the same committee within five days of each other, the activity may be combined into one report. A committee choosing this option shall file a report on or before the second due date that covers the extended reporting period.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.13(68A,68B) Report forms—summary page (DR-2) and supporting schedules. The board may require committees to submit relevant information not specifically delineated in Iowa Code Supplement chapter 68A on their disclosure report where the report form asks for and leaves space for information. All information shall be pertinent to the duties of the board.

4.13(1) *Official reporting forms.* The disclosure reporting forms provided by the board shall be the official forms on which the disclosure reports shall be submitted. Machine copies of original report forms are acceptable. The standard forms for campaign disclosure reports are:

DR-2 — Disclosure Summary Page
Schedule A — Monetary Receipts
Schedule B — Monetary Expenditures
Schedule C — (Reserved)
Schedule D — Incurred Indebtedness
Schedule E — In-kind Contributions
Schedule F — Loans Received and Repaid
Schedule G — Consultant Activity
Schedule H — Campaign Property

4.13(2) *Computer-generated reports.* Committees may generate a disclosure report in lieu of using a board-approved paper report or the board's electronic filing system so long as the generated report contains the same information and is in the same basic format as a board-approved paper report. Committees generating their own reports must submit the reports for prior board approval before use.

4.13(3) *Typewritten or legible ink reports required.* Information which is provided on all forms shall be either typewritten or printed legibly in black ink. Approved computer-generated reports satisfy this requirement.

4.13(4) *Special information required for city, school, or local ballot issue elections.* Committees expressly advocating the election or defeat of a candidate for city or school public office, or expressly advocating the passage or defeat of a local ballot issue, shall indicate in the designated spaces on the report summary page the date that the election is to be held, the period covered by the disclosure report, and the control county responsible for conducting the election.

4.13(5) *Signature on DR-2 Report Summary Page.* A disclosure report shall be signed by the individual filing the report. A disclosure report filed electronically using the board's Web site is deemed signed when filed.

This rule is intended to implement Iowa Code Supplement sections 68A.402 and 68A.403.

351—4.14(68A,68B) Schedule A - Monetary Receipts.

4.14(1) *Reporting of all monetary receipts; chronological listing.* The committee shall report the amounts of all monetary receipts which are accepted by the committee during the reporting period. If a contribution is returned to a contributor prior to the end of the reporting period and is not deposited into the committee's bank account, the contribution is deemed to have been rejected and shall not be reported. A contribution which is physically received and either deposited into the committee's account or not returned by the end of the reporting period is deemed to have been accepted. The schedule entries shall be listed in chronological order by the date on which the contribution is received.

4.14(2) *Date of contribution—date received.* The schedule shall include the complete date (month/day/year) that the contribution was physically received by a person on behalf of the committee. If the contribution is by check, the date of the contribution to be reported is the date the check is physically received by a person on behalf of the committee, even if this date is different from the date shown on the check. For contributions received by mail, the date of the contribution to be reported shall be the date that the recipient physically opens the envelope.

4.14(3) *Name and address of contributor; joint accounts.* The schedule shall include the name and address of each person who has made one or more contributions of money to the committee if the aggregate amount of contributions (either monetary or in-kind) received from that person in the calendar year exceeds $25, except that the itemization threshold is $200 for a state statutory political committee and $50 for a county statutory political committee. In the case of a contribution by check, the contributor name on the disclosure report shall be the name shown as the account name on the account, except that if the check is on a joint account, the contribution shall be presumed to be from the person who signs the check. If the committee chooses to itemize contributions that are less than the required itemization threshold, it may do so, but shall either do so for all contributions or none of the contributions under the threshold.

4.14(4) *Unitemized contributions and freewill donations.* If the committee does not choose to itemize all contributions under the itemization threshold ($25 for most committees, see Iowa Code Supplement section 68A.402(3)*"b"*), it shall aggregate these contributions and report the aggregate amount as "unitemized contributions." No date received is required to be provided for miscellaneous unitemized contributions. Unitemized contributions may be solicited and received through a freewill donation such as a "fish bowl" or "pass the hat" collection if the collection is in compliance with rule 351—4.30(68A,68B). Unitemized contributions collected through freewill donations (the net amount of the collection after the itemization of those persons whose contributions of more than $10 in the freewill collection resulted in exceeding the annual itemization threshold) shall be reported by showing the net amount as "unitemized contributions—pass the hat (or can collection or fish bowl, for example) collection." The "date received" to be reported for a freewill donation is the date a representative of the committee takes possession of the proceeds of the collection.

4.14(5) *Relationship to candidate.* In the case of contributions to candidates' committees, the schedule shall include information indicating whether the contributor is related to the candidate within the third degree of consanguinity or affinity. "Consanguinity" means a relative through descent from common ancestors (by blood). "Affinity" means a relative through a current marriage. A husband has the same relation, by affinity, to his wife's blood relatives as she has to them by consanguinity and vice versa. "Degree of kinship" is determined by counting upward from one of the persons in question to the nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line. Under this rule, a woman's sister is related to her by consanguinity in the second degree. The sister is thus related to the woman's husband by affinity in the second degree. Other examples of relationships within the third degree between a contributor and a candidate would be the following: children and stepchildren (first degree); siblings and half-siblings (second degree); grandparents (second degree); grandchildren (second degree); aunts and uncles (third degree); nieces and nephews (third degree); great-grandparents (third degree) and great-grandchildren (third degree), all irrespective of whether the blood relationship is to the candidate or to the candidate's spouse.

4.14(6) *ID number and check number.* If a contribution to a statewide or general assembly candidate or a judge standing for retention is from a statewide political committee (PAC) or a state party committee, the candidate receiving the contribution shall include on the candidate's disclosure report the board-assigned identification number of the contributing committee and the check number by which the contribution was made. A list of ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

4.14(7) *Fund-raiser income.* Contributions arising from the sale of goods or services at a fund-raising event shall be designated by marking the indicated space on the schedule.

4.14(8) *Interest and other monetary receipts other than contributions.* If the monetary receipt is not a "contribution," the name and address of the source of the funds shall be identified in the space provided for the name and address of "contributor," with a notation as to the purpose of the payment, such as "bank interest."

4.14(9) *Reverse entries—refunds.* If a committee determines to decline or otherwise return a contribution after it has been received, accepted, and deposited, the committee may issue a refund to the contributor, which shall be reported on Schedule A as a reverse entry, reducing the monetary receipts.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.15(68A,68B) Schedule B - Monetary Expenditures.

4.15(1) *Date expended.* The committee shall report the amounts of all itemized expenditures (expenditures of $5 or more) made by the committee for the reporting period chronologically by the date expended. The date of the expenditure is the date the check is issued. The complete date (month/day/year) shall be provided.

4.15(2) *Name and address of recipient.* The schedule shall include the name and address of each person to whom disbursements, other than loan repayments, were made during the reporting period. (Loan repayments shall be reported on Schedule F.)

4.15(3) *Purpose of expenditure.* The schedule shall include a description of the purpose of each disbursement. The description shall be a clear and concise statement that specifically describes the transaction which has occurred. The following general terms are examples of descriptions which are not acceptable: "expenses," "reimbursement," "candidate expense," "services," "supplies," and "miscellaneous expense." The following are examples of acceptable descriptions: "printing—candidate yard signs," "printing—PAC membership solicitation letter," "mailing—candidate brochures," "reimbursement for candidate lodging to attend campaign event," or "mileage reimbursement—150 miles @ 25¢ per mile." A combined description is not acceptable unless sufficient information is provided so that the cost of separate purposes can be discerned, for example, "printing and mailing of 1,000 brochures."

4.15(4) *Miscellaneous (unitemized) expenses.* Notwithstanding the other provisions of this rule, disbursements of less than $5 may be shown as miscellaneous disbursements or expenses for the period so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed $100.

4.15(5) *Candidate ID number and committee check number.* If a contribution is made by a statewide political committee (PAC) or a state party committee to a statewide or general assembly candidate or a judge standing for retention, the committee making the contribution shall include on the committee's disclosure report the board-assigned identification number of the recipient candidate's committee and the check number by which the contribution was made. A list of candidate ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

4.15(6) *Check transactions required.* All disbursements, including all expenditures and any other withdrawals from committee funds, shall be by check. Cash withdrawals and "petty cash" accounts are not permitted. Committees' activities which necessitate cash drawers or other cash transactions shall be conducted and reported as provided by rule 351—4.36(68A,68B).

4.15(7) *Reverse entries—refunds.* If a committee receives a refund of all or part of a disbursement previously made, the committee shall report the refund on Schedule B as a reverse entry, reducing the monetary expenditures. The purpose should include an explanation as to why the refund was made.

4.15(8) *Interest paid; bank charges.* Although repayments of loan principal are reported on Schedule F (see rule 351—4.18(68A,68B)), interest payments on loans shall be reported on Schedule B. Bank service charges and fees (e.g., monthly service fees, costs for check printing, returned check charges) shall also be reported and identified on Schedule B.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.16(68A,68B) Schedule D - Incurred Indebtedness.

4.16(1) *Reporting of debts and obligations other than monetary loans.* The committee shall report all debts and obligations owed by the committee which are in excess of the thresholds in subrule 4.14(3). This applies to any unpaid debt or obligations incurred by the committee for the purchase of a good or service, either as a debt or obligation owed to the immediate provider of the good or service, or as a debt or obligation owed to an individual who initially personally paid for the good or service on behalf of the committee with the expectation of ultimately receiving reimbursement from the committee. However, monetary loans to the committee (which are deposited directly into the committee's account) shall be reported on Schedule F, not on Schedule D.

4.16(2) *Date incurred; balance owed.* The committee shall report the amounts of all indebtedness owed by the committee at the end of the reporting period, reported chronologically by the date incurred. The date the debt or obligation is incurred is the date on which the committee committed to obtaining the good or service underlying the obligation. This date may be earlier than the date the provider of the good or service issues a bill to the committee. For example, if the committee places a printing order, but the printer does not issue a bill until some time after the order is placed, the date which shall be reported as the date the debt was incurred is the date the order is placed, not the date the bill was issued. If the precise amount of the final bill is not known by the time the report is due, the committee shall provide its best estimate as to what the obligation will be, with an indication "(e)" that the amount reported is an estimate. The complete date (month/day/year) shall be provided. Debts and obligations incurred and reported in a prior reporting period but which remain unpaid as of the end of the current reporting period shall be included, showing the remaining balance on the obligation, as well as any new obligations incurred in the current reporting period. Payments of all or part of a previously reported obligation shall be reported as expenditures on Schedule B.

4.16(3) *Name and address of person to whom the debt or obligation is owed.* The schedule shall contain the name and address of each person to whom an obligation is owed, including both those obligations which were incurred during the reporting period and those outstanding obligations which are being carried forward from prior reports. If the obligation is owed to an individual who initially personally paid for the good or service on behalf of the committee with the expectation of ultimately receiving reimbursement from the committee, the original nature of the obligation shall be provided; the name and address of the original provider of the good or service shall also be provided, unless the nature of the obligation indicates that the obligation is for the anticipated reimbursement for mileage or postage stamps.

4.16(4) *Nature of obligation.* The schedule shall include a description of the nature of each obligation. The description shall be a clear and concise statement that specifically describes the transaction which has occurred. The following general terms are examples of descriptions which are not acceptable: "expenses," "reimbursement," "candidate expense," "services," "supplies," and "miscellaneous expense." The following are examples of acceptable descriptions: "printing—candidate yard signs," "printing—PAC membership solicitation letter," "mailing—candidate brochures," "anticipated reimbursement for candidate lodging to attend campaign event," or "anticipated mileage reimbursement—150 miles @ 25¢ per mile." A combined description is not acceptable unless sufficient information is provided so that the cost of separate purposes can be discerned, for example, "printing and mailing of 1,000 brochures."

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.17(68A,68B) Schedule E - In-kind Contributions.

4.17(1) *Reporting of all in-kind contributions; chronological listing.* The committee shall report the amounts of all in-kind contributions which are accepted by the committee during the reporting period. The schedule entries shall be listed in chronological order by the date on which the contribution is received.

4.17(2) *Date of contribution—date received.* The schedule shall include the complete date (month/day/year) on which the in-kind contribution was physically received by a person on behalf of the committee.

4.17(3) *Name and address of contributor.* The schedule shall include the name and address of each person who has made one or more in-kind contributions to the committee if the aggregate amount of contributions (either monetary or in-kind) received from that person in the calendar year exceeds $25, except that the itemization threshold is $200 for a state statutory political committee and $50 for a county statutory political committee.

4.17(4) *Relationship to candidate.* In the case of in-kind contributions to candidates' committees, the schedule shall include information indicating whether the contributor is related to the candidate within the third degree of consanguinity or affinity, as defined in subrule 4.14(5).

4.17(5) *Description of in-kind contribution; loaned equipment as in-kind contribution.*

a. The schedule shall include a description of the good or service contributed to the committee in kind. The description shall be a clear and concise statement that specifically describes the transaction which has occurred.

b. A committee's use of equipment owned by another organization, committee, or individual is reportable as an in-kind contribution. Equipment includes, but is not limited to, typewriters, calculators, copy machines, office furniture, computers and printers.

4.17(6) *Fair market value.* The committee shall provide either the actual (if known) or estimated fair market value of the good or service received.

4.17(7) *Fund-raiser item.* Goods or services contributed in kind for sale at a fund-raising event shall be designated by marking the indicated space on the schedule.

4.17(8) *Unitemized contributions.* Notwithstanding the other provisions of this rule, in-kind contributions with a fair market value less than the itemization threshold noted in subrule 4.17(3) may be reported as "unitemized in-kind contributions."

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.18(68A,68B) Schedule F - Loans Received and Repaid.

4.18(1) *Reporting of monetary loans (not debts and obligations for goods and services).* The committee shall report all loan activity made to or repaid by the committee during the reporting period. This applies to any loan of money which is deposited into the committee's accounts. However, other debts and obligations owed for the provision of goods or services to the committee (which are not monetary advances deposited into the committee's account) shall be reported on Schedule D, not on Schedule F.

4.18(2) *Report of lump sum of unpaid loans carried over from last report.* The schedule shall contain a beginning entry of the total unpaid loans as of the last report. Loans received and itemized on prior reports should not be re-itemized on the current report, except as necessary to indicate repayment activity.

4.18(3) *Date received.* The schedule shall include the complete date (month/day/year) the loan was physically received by a person on behalf of the committee. If the loan was by check, the date of the loan to be reported is the date the check is physically received by a person on behalf of the committee, even if this date is different from the date shown on the check.

4.18(4) *Date paid.* The schedule shall include the complete date (month/day/year) a full or partial loan repayment is made by the committee. The date of the repayment is the date the check is issued. Full or partial loan repayments shall be shown on this schedule and should not be reported on Schedule B. However, loan interest payments shall be reported on Schedule B (see rule 351—4.15(68A,68B)) and not on Schedule F. Loans which may be and are forgiven in full or in part are considered in-kind

contributions and shall be itemized on Schedule E, with a cross-reference entry in the space provided on Schedule F.

4.18(5) *Name and address of lender.* The schedule shall include the name and address of each person who has made one or more loans of money to the committee during the reporting period, or to whom the committee makes a full or partial loan repayment during the reporting period. If the person who made the loan to the committee is not the original source of the money, when the original source of the money is a third party (such as a bank which loans money to an individual who loans it to the committee) or if a third party has personally paid and assumed a loan from the original lender (such as an individual who pays off the loan to the bank with the expectation of receiving the loan repayment from the committee), the report shall also identify the name and address of the third party.

4.18(6) *Relationship to candidate.* In the case of monetary loans to candidates' committees, the schedule shall include information indicating whether the lender is related to the candidate within the third degree of consanguinity or affinity, as defined in subrule 4.14(5).

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.19(68A) Schedule G - Breakdown of Monetary Expenditures by Consultants. A committee that enters into a contract with a consultant for future or continuing performance shall be required to report expenditures made to the consultant and the nature of the performance of the consultant that is expected to be received by the committee. A committee is required to report in Part 1 of Schedule G any contracts with consultants that it has negotiated, the complete name and address of the consultant, the period of time during which the contract is in effect, and estimates of performance to be derived from the contract. Expenditures made to the consultant during a reporting period shall be reported with all other expenditures on Schedule B, and debts incurred with the consultant during the reporting period shall be reported with all other debts on Schedule D. Additionally, a detailed breakdown of the expenditures made by the consultant shall be reported by the committee in Part 2 of Schedule G and shall include the date of the expenditure, the purpose of the expenditure and the amount of the expenditure. The description of the purpose of the expenditure shall be consistent with the provisions of subrule 4.15(3).

For purposes of this rule, "contract" means an oral or written agreement between two parties for the supply or delivery of specific services in the course of the campaign. "Performance" means the execution or fulfillment of the contractual agreement. "Nature of performance" means a clear description of the specific services received or benefit derived as the result of a contract with a consultant. "Estimate of performance" means a clear description of the services the committee reasonably expects to receive or the benefit the committee reasonably expects to derive during the period of the contract.

This rule is intended to implement Iowa Code sections 68A.102(9) as amended by 2005 Iowa Acts, House File 312, section 3, and 68A.402A.

351—4.20(68A,68B) Schedule H - Campaign Property.

4.20(1) *Ongoing inventory.* Equipment, supplies, or other materials purchased with campaign funds or received in kind are campaign property. Campaign property, other than consumable campaign property, with a value of $500 or more when acquired by the committee shall be listed on the inventory section of the schedule. The property shall be listed on each report until it is disposed of by the committee or its residual value falls below $100 and the property is listed once as having a residual value of less than $100. "Consumable campaign property" means stationery, yard signs, and other campaign materials that have been permanently imprinted to be specific to a candidate or election. For property purchased by the committee, the date purchased shall be the earlier of the date the committee attained physical possession of the property or the date the committee issued payment for the property. For in-kind contributions, the date received shall be the date on which the committee attained physical possession of the property. The committee shall provide the complete date (month/day/year). The schedules shall include the purchase price of property purchased by the committee and the actual or estimated fair market value of property received as an in-kind contribution, as well as the actual or estimated current fair market value of the property at the end of the current reporting period.

4.20(2) *Sales or transfers of campaign property.* The schedule shall include information regarding the sale or transfer of campaign property, other than consumable campaign property, which occurred during the current reporting period. The information shall include the complete date of the transaction (month/day/year), the name and address of the purchaser or donee, and a description of the property. If the property is sold, the information shall include the sales price received; if the property is donated, the information shall include the fair market value of the property at the time of the transfer.

This rule is intended to implement Iowa Code Supplement sections 68A.304 and 68A.402.

351—4.21(68A) Reconciled bank statement required with January report and final report.

4.21(1) A committee that participates in an election at the state level and that is required by Iowa Code Supplement section 68A.402 to file a disclosure report on or before January 19 of each year shall attach to or submit with that disclosure report a copy of the committee's bank statement that includes activity through December 31 of the year reported.

4.21(2) A committee that participates in an election at the county, city, school, or other political subdivision level and that is required by Iowa Code Supplement section 68A.402 to file a disclosure report on or before January 19 of each year is not required to attach or submit a copy of the committee's bank statement unless requested to do so by the board. If such a committee is requested to file the bank statement, the committee shall comply with the requirements of rule 351—4.21(68A).

4.21(3) If the bank statement cycle is such that the committee has not received the statement including activity through December 31 by the date for filing the January report, the committee shall separately file or submit the bank statement within ten days after receipt of the statement by the committee.

4.21(4) The committee shall include a reconciliation to justify outstanding checks and other discrepancies between the ending balance on the bank statement and the ending balance on the disclosure report.

4.21(5) A committee that files a final disclosure report shall comply with the requirements of subrule 4.55(5) concerning the filing of a final bank statement.

4.21(6) A committee seeking a waiver from the requirements of this rule may do so in accordance with 351—Chapter 15.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.22(68A,68B) Verification of reports; incomplete reports.

4.22(1) The board staff will review and desk audit each disclosure report. The board may contact other parties to verify the accuracy and completeness of the reports. The board may contact a representative of the committee and may contact other parties to determine the authenticity of information provided about filed reports.

4.22(2) If, upon review, board staff determine that a committee's report is incomplete because required information has been omitted or has been incorrectly reported, the staff shall communicate the deficiencies to the committee. A failure to satisfactorily respond to or to remedy the error or omission may be grounds for a violation of Iowa Code Supplement section 68A.402 as a failure to file a report which conforms to the requirements of that provision.

This rule is intended to implement Iowa Code Supplement section 68A.402 and Iowa Code section 68B.32A.

351—4.23(68A,68B) Amendment—statements, disclosure reports and notices. A committee may amend a previously filed statement of organization, disclosure report or notice of dissolution. To amend a previously filed statement, report or notice, the committee shall file an amended document on the approved form and shall designate on the form in the space provided, if applicable, that the document being filed is an amendment to a previously filed statement, report or notice. The term "amended document" as used in this rule shall mean a document on forms issued by the board which includes

only the information which is being added, deleted or changed from a previously filed statement of organization or notice of dissolution.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.24(68A) Reporting of state party building fund transactions. Pursuant to Federal Election Commission Advisory Opinion 2004-28, the board will permit a state statutory political committee (state party committee) to receive contributions from corporations, insurance companies, and financial institutions when those contributions are placed in the state party building fund account, the contributions are used to pay for costs associated with the building, and all transactions involving the fund are disclosed pursuant to this rule.

A state party committee filing a state party building fund report under this rule shall use either the report form prescribed by the board or a computer-generated report so long as the report includes the information required under subrule 4.24(2).

4.24(1) *Period covered.* A state party building fund report shall cover the time period from January 1 through December 31 of the previous year.

4.24(2) *Information to be disclosed.* The following information shall be disclosed on a state party building fund report:

a. The name and address of the state party committee.

b. The name and address of each person who makes a contribution in excess of $200, or contributions in the aggregate that exceed $200 during the period covered, to the state party building fund. If no contributions were received for the fund, the report shall disclose $0.00 as contributions received.

c. The date and the amount of the contribution. If aggregate contributions from one person are received that exceed $200, the amount to be disclosed shall be the total amount received from that person for the period covered and the date to be disclosed shall be the date of the last contribution.

d. The total amount of all contributions of $200 or less received during the period covered. This total amount shall be disclosed as being received from "unitemized" with the date of the contribution being the last day of the reporting period.

e. The name and mailing address of each person to whom an expenditure that exceeds $200 is made, or expenditures in the aggregate that exceed $200 during the period covered, from the state party building fund. If no expenditures were made from the fund, the report shall disclose $0.00 as expenditures made.

f. The date and the amount of the expenditure. If aggregate expenditures that exceed $200 are made to one person, the amount to be disclosed shall be the total amount made to that person for the period covered and the date to be disclosed shall be the date of the last expenditure.

g. The total amount of all expenditures of $200 or less made during the period covered. This total amount shall be disclosed as being expended to "unitemized" with the date of the expenditure being the last day of the reporting period.

h. The signature and date of the individual filing the state party building fund report.

4.24(3) *Place of filing.* A state party building fund report shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-3701.

4.24(4) *Time of filing.* A state party building fund report shall be filed on or before January 31 of each year. If mailed, the report must bear a United States Postal Service postmark dated on or before the due date. A faxed report must be submitted on or before 11:59 p.m. on the due date. If January 31 falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date shall be extended to the next working day when the board office is open.

4.24(5) *Failure to file.* If the board determines that a state party committee has failed to timely file a state party building fund report, the state party committee is subject to the possible imposition of board sanctions.

This rule is intended to implement Iowa Code sections 68A.402A(1)*"k"* and 68A.503.

351—4.25(68A,68B) Legitimate expenditures of campaign funds.

4.25(1) Expenses which may be paid from campaign funds for campaign purposes include, but are not limited to, the following items so long as the items promote or enhance the candidacy of the candidate:

a. Electronic media advertising, such as radio, cable television and commercial television.

b. Published advertising, such as newspaper, magazine, newsletter and shopper advertising.

c. Printed promotional materials, such as brochures, leaflets, flyers, invitations, stationery, envelopes, reply cards, return envelopes, campaign business cards, direct mailings, postcards and "cowboy" political cards.

d. Political signs, such as yard signs, car signs, portable outdoor advertising, stationary outdoor advertising and billboards.

e. Political advertising specialty items, such as campaign buttons, campaign stickers, bumper stickers, campaign pins, pencils, pens, matchbooks, balloons, scratch pads, calendars, magnets, key chains, campaign caps and T-shirts.

f. Travel and lodging expenses of the campaign workers for campaign purposes and political party activities. Travel and lodging expenses for a candidate to attend a national political party convention are also permitted.

g. Contributions to political party committees.

h. The purchase of tickets to a meal for the candidate and one guest so long as the attendance at the meal by the candidate and guest is for the sole purpose of enhancing the candidacy of any person.

i. General campaign expenditures, such as printing, copy machine charges, office supplies, campaign photographs, gambling permits, fund-raiser prizes, postage stamps, postage meter costs, bulk mail permits, telephone installation and service, facsimile charges, and computer services. However, the purchase or rental of formal wear to attend a political event is not a permissible general campaign expenditure.

j. Purchase or lease of campaign equipment, such as copy machines, telephones, facsimile machines, computer hardware, software and printers.

k. Purchase or lease of campaign office space, parking lots or storage space and the payment for campaign office utilities and maintenance.

l. Payment of salaries, fringe benefits, bonuses, and payroll taxes of paid campaign staff. Family members who perform actual work or services for a campaign may be compensated for such work or services.

m. Payment for check printing and financial institution banking service charges.

n. Lease or rental of a campaign vehicle, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that noncampaign miles are reimbursed to the committee at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, the purchase of a campaign vehicle is prohibited.

o. Reimbursement to candidates and campaign workers for mileage driven for campaign purposes in a personal vehicle, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code.

p. Payment for food expenses and supplies for campaign-related activities, such as the purchase of food, beverages and table service for fund-raising events or campaign volunteers. However, except as provided in paragraph *"h,"* the purchase of tickets for meals or fund-raising events for other candidates is prohibited, and the purchase of groceries for the candidate or candidate's family is also prohibited. Payment for meals for the candidate (other than those involving tickets for fund-raiser events as addressed in paragraph *"h"*) is permitted as an allowable expenditure for campaign purposes if the meal was associated with campaign-related activities.

q. Payment of civil penalties and hearing costs assessed by the board.

r. Payment for the services of attorneys, accountants, consultants or other professional persons when those services relate to campaign activities.

s. Subscriptions to newspapers and periodicals that circulate within the area represented by the office that a candidate is seeking or holds, that contain information of a general nature about the state of Iowa, or that contain information useful to all candidates such as The Wall Street Journal and Roll Call. Candidates who are unsure whether a subscription is permissible shall seek guidance from the board prior to paying for the subscription with campaign funds.

t. Membership in service organizations including a local chamber of commerce.

u. Repayment of campaign loans made to the committee. Candidates who make loans to their own committees shall not charge interest on the loans in excess of 5 percent.

v. Purchase of reports of other candidates and political committees so long as the reports' contents are not used for solicitation or commercial purposes.

w. Donations to charitable organizations unless the candidate or the candidate's spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent is employed by the charitable organization and will receive a direct financial benefit from a donation.

x. Contributions to federal, state, county and city political party committees.

y. Refunds to contributors when a contribution has been accepted in error, or when a committee chooses to dispose of leftover funds by refunding them in prorated shares to the original contributors.

z. Payment for items with a purchase price not to exceed $250 per person that are presented to committee workers in recognition of services to the committee.

aa. Expenses incurred with respect to an election recount as provided in Iowa Code section 50.48.

bb. The sharing of information in any format such as computer databases containing yard sign locations or lists of registered voters with another candidate's committee.

4.25(2) Expenses which may be paid from campaign funds for educational and other expenses associated with the duties of office include, but are not limited to, the following items:

a. Purchase or lease of office supplies and equipment, such as paper, copy machines, telephones, facsimile machines, computer hardware, software and printers.

b. Travel, lodging and registration expenses associated with attendance at an educational conference of a state, national, or regional organization whose memberships and officers are primarily composed of state or local government officials or employees. However, meal expenses are not allowable as expenses associated with the duties of office under any circumstances.

c. Meals and other expenses incurred in connection with attending a local meeting to which the officeholder is invited and attends due to the officeholder's official position as an elected official.

d. Purchases of small, incidental items such as pencils, pens, rulers and bookmarks provided to members of the public touring the offices of the state or a political subdivision. However, such items distributed on public property shall not expressly advocate the election or defeat of a candidate or the adoption or defeat of a ballot issue as prohibited in Iowa Code Supplement section 68A.505. For example, a bookmark bearing the state seal could be distributed on public property, while a bookmark that identified the donor as a candidate for office could not be distributed on public property.

e. Gifts purchased for foreign dignitaries when the officeholder is part of an official trip out of the country such as a trade mission or exchange program.

f. Printing of additional stationery and supplies above the standard allotment of the state or political subdivision.

4.25(3) Expenses which may be paid from campaign funds for constituency services include, but are not limited to, the following items:

a. Mailings and newsletters sent to constituents.

b. Polls and surveys conducted to determine constituent opinions.

c. Travel expenses incurred in communicating with members of an elected official's constituency, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, meal expenses are not allowable as expenses associated with constituency services under any circumstances.

d. Holiday and other greeting cards sent to constituents.

This rule is intended to implement Iowa Code Supplement sections 68A.301, 68A.302, and 68A.303.

351—4.26(68A) Transfers between candidates.

4.26(1) *Transfer of assets between different candidates.* A candidate's committee may transfer an asset to a candidate's committee established by a different candidate so long as the recipient committee pays the transferring committee the fair market value of the asset and the transaction is properly disclosed on each committee's disclosure report.

4.26(2) *Transfer of assets for same candidate.* A candidate's committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees.

This rule is intended to implement Iowa Code Supplement section 68A.303.

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117, any person except a candidate or a registered committee that makes one or more independent expenditures in excess of $100 in the aggregate shall file an independent expenditure statement.

4.27(1) *Independent expenditure defined.* "Independent expenditure" means an expenditure for a communication that expressly advocates the nomination, election, or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue when the expenditure is made without the prior approval of or coordination with a candidate, candidate's committee, or a ballot issue committee. "Independent expenditure" also means "independent expenditure" as defined in subrule 4.53(3).

4.27(2) *Independent expenditure statement.* The following information shall be disclosed on the independent expenditure statement:

a. The name, mailing address, and telephone number of the person that files the statement, including the name, mailing address, and telephone number of a contact person, if applicable.

b. A description of the position that is advocated by the person that files the statement such as whether the communication was for a particular candidate or was against a particular candidate.

c. The name and address of the committee that benefits from the expenditure.

d. The dates on which the expenditure or expenditures took place.

e. A description of the nature of the action taken that resulted in the expenditure or expenditures such as a newspaper advertisement, direct mailing, or brochure.

f. The actual cost or fair market value of the expenditure or expenditures.

4.27(3) *Place of filing.* An independent expenditure statement shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-4073. The board shall immediately make the independent expenditure statement available for public viewing via the board's Web site at www.iowa.gov/ethics.

4.27(4) *Time of filing.* An independent expenditure statement shall be filed within 48 hours of the making of an independent expenditure exceeding $100 or independent expenditures exceeding $100 in the aggregate. An independent expenditure is deemed made at the time that the cost is incurred.

4.27(5) *Failure to file.* A person that fails to timely file an independent expenditure statement shall be subject to the imposition of civil penalties pursuant to 351—subrule 4.59(7).

4.27(6) *Attribution statement applicable.* Any person that makes an independent expenditure in any amount shall comply with the appropriate "paid for by" attribution statement pursuant to rule 351—4.38(68A,68B).

4.27(7) *Other filings not required.* A person that properly files an independent expenditure statement shall not be required to file a statement of organization registering a committee or file public disclosure reports.

4.27(8) *Campaign committees.* A committee that makes an independent expenditure shall disclose the transaction on the committee's appropriate disclosure report and shall not file an independent expenditure statement.

This rule is intended to implement Iowa Code section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117.

351—4.28(68A) Prohibition on contributions and independent expenditures by foreign nationals. As provided in Federal Election Commission regulation 11 CFR 110.20, a foreign national shall not, directly or indirectly, make a contribution or expenditure of money or other thing of value, or specifically promise to make a contribution, in connection with a state or local campaign or election in Iowa. A foreign national shall not, directly or indirectly, make a contribution to a campaign committee organized under Iowa Code Supplement chapter 68A. Foreign nationals are also prohibited from making independent expenditures in relation to any state or local campaign or election in Iowa.

4.28(1) *Foreign national defined.* "Foreign national" means a person who is not a citizen of the United States and who is not lawfully admitted for permanent residence. "Foreign national" also includes a "foreign principal," such as a government of a foreign country or a foreign political party, partnership, association, corporation, organization, or other combination of persons that has its primary place of business in or is organized under the laws of a foreign country. "Foreign national" shall not include any person who is a citizen of the United States or who is a national of the United States.

4.28(2) *Acceptance of contributions and independent expenditures from foreign nationals.* No person shall knowingly accept or receive any contribution from a foreign national with regard to such person's election-related activities.

4.28(3) *Participation by foreign nationals in decisions involving election-related activity.* A foreign national shall not, directly or indirectly, participate in the decision-making process of any person, including a corporation, labor organization, political committee, or political organization, with regard to such person's election-related activities. Decisions including election-related activities include decisions involving the making of contributions, donations, or expenditures in connection with elections for state or local office or decisions involving the administration of a political committee.

This rule is intended to implement Iowa Code Supplement chapter 68A.

351—4.29(68A,68B) Contributions by minors. Persons under 18 years of age may make contributions to a candidate or political committee if all of the following conditions exist:

1. The decision to contribute is made knowingly and voluntarily by the minor;
2. The funds, goods, or services contributed are owned or controlled exclusively by the minor, such as income earned by the minor, the proceeds of a trust for which the minor is the beneficiary, or a savings account opened and maintained exclusively in the minor's name; and
3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

This rule is intended to implement Iowa Code Supplement section 68A.404.

351—4.30(68A,68B) Funds from unknown source prohibited; subsequent identification of source; notice to contributors.

4.30(1) *Anonymous contributions in excess of $10 prohibited.* No person shall make a contribution in excess of $10 to a committee without providing the person's name and address to the committee. The committee shall not maintain in any campaign account funds in excess of $10 that cannot be accounted for and reconciled with the committee's disclosure reports.

4.30(2) *Escheat to the state.* Any contribution in excess of $10 from an unknown source or campaign funds in excess of $10 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code section 68A.501 as amended by 2007 Iowa Acts, Senate File 39, section 8. A committee required to escheat shall escheat such funds by depositing the funds into the committee's campaign account and issuing a committee check to the general fund in the same amount. The committee

check shall be sent to the board office at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, for transmittal to the office of treasurer of state.

4.30(3) *Subsequent identification of source.* A committee discovering the source of any funds that have been escheated to the state may make an application to the board for a return of the funds if the following requirements are met:

a. The committee has not dissolved;

b. Documentation of the name and address of the source is provided;

c. The amount requested to be returned is in excess of $100; and

d. The application is made within 90 days of the date of the deposit in the general fund of the state of Iowa.

4.30(4) *Notice at fund-raising event.* Pursuant to Iowa Code Supplement section 68A.501, a person requested to make a contribution at a fund-raising event shall be advised that it is illegal to make a contribution in excess of $10 unless the person making the contribution also provides the person's name and address. Notice of the requirement to provide a person's name and address for a contribution in excess of $10 may be made orally or in a written statement that is displayed at the fund-raising event.

This rule is intended to implement Iowa Code section 68A.501.

351—4.31(68A) Information required for a trust to avoid a contribution in the name of another person. A contribution to a committee by a trustee solely in the name of the trust constitutes a contribution in the name of another person as prohibited in Iowa Code Supplement section 68A.502 unless the recipient committee publicly discloses the contribution as provided in this rule.

4.31(1) *Living or revocable trust.* If the contribution involves a trust identified as a revocable trust or a living trust that does not file a separate trust tax return and whose federal tax ID number is the same as the social security number of the grantor who creates the trust and who is also a trustee, the contribution shall be reported by the recipient committee as being made by the "(name) revocable (or living) trust."

4.31(2) *Other trusts.* For a contribution involving a trust that does not qualify under subrule 4.31(1), the recipient committee shall identify the trust, the trustee, and the trustor.

4.31(3) *Registering a committee.* A trust, except for a living or revocable trust, that raises or spends more than $750 for campaign activities shall register a political committee (PAC) and shall file disclosure reports. A trust, except for a living or revocable trust, that makes a one-time contribution in excess of $750 may file Form DR-OTC in lieu of filing a statement of organization and filing disclosure reports.

This rule is intended to implement Iowa Code Supplement sections 68A.402(6) and 68A.502.

351—4.32(68A) Contributions from political committees not organized in Iowa. Iowa committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa committees provided the out-of-state committee complies with either subrule 4.32(1) or subrule 4.32(2). For purposes of this rule, "out-of-state committee" means a committee that is registered with the campaign enforcement agency of another state or is registered with the Federal Election Commission.

4.32(1) *Regular filings.* Out-of-state committees may choose to comply with the regular disclosure filing requirements in Iowa Code Supplement sections 68A.201 and 68A.402 by filing a statement of organization and periodic disclosure reports.

4.32(2) *Verified statement of registration.* In lieu of filing a statement of organization and regular disclosure reports as required by Iowa Code chapter 68A, the out-of-state committee shall file with the board a verified statement registration form (VSR) for each contribution in excess of $50. The VSR shall contain the following information:

a. The complete name, address and telephone number of the out-of-state committee;

b. The state or federal agency with which the out-of-state committee is registered;

c. All parent entities or other affiliates or sponsors of the out-of-state committee;

d. The purpose of the out-of-state committee;

e. The name, address and telephone number of an Iowa resident authorized to receive service on behalf of the out-of-state committee;

f. The name and address of the Iowa recipient committee;

g. The date and amount of the contribution, including description if the contribution is in-kind; and

h. An attested statement that the jurisdiction with which the out-of-state committee is registered has reporting requirements substantially similar to those of Iowa Code chapter 68A. The statement shall include confirmation that the contribution is made from an account that does not accept contributions prohibited by Iowa Code section 68A.503 as amended by 2007 Iowa Acts, Senate File 42, section 2, unless the contribution from the out-of-state committee is made to an Iowa ballot issue committee.

4.32(3) *Signature.* The VSR shall be signed by the individual filing the VSR on behalf of the out-of-state committee.

4.32(4) *Where filed.* Every VSR filed for a contribution in excess of $50 shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, electronically using the board's Web site at www.iowa.gov/ethics, as an E-mail attachment, or by fax at (515)281-4073.

4.32(5) *When filed.* The VSR shall be filed with the board on or before the fifteenth day after the date of the contribution, or mailed bearing a United States Postal Service postmark dated on or before the fifteenth day after the date of the contribution. For purposes of this subrule, "date of the contribution" means the day, month, and year the contribution check is dated. If the board deems it necessary, a copy of any contribution check may be required to be filed with the board. When a copy of a check is required to be filed with the board, the copy shall be filed within ten days after notice by the board.

4.32(6) *Enhanced filing.* An out-of-state committee determining that the jurisdiction under which the committee is registered does not have reporting requirements substantially similar to those of Iowa Code Supplement chapter 68A may choose to comply by enhancing the committee's filing in the other jurisdiction. The enhanced filing shall meet the reporting requirements of Iowa Code Supplement chapter 68A for the reporting period during which contributions to Iowa committees are made. The report shall cover a period of at least one month. An out-of-state committee choosing this option shall comply with the VSR procedures in subrule 4.32(2) and attach a signed statement that the report has been enhanced to satisfy the Iowa reporting requirements.

This rule is intended to implement Iowa Code section 68A.201(5) as amended by 2007 Iowa Acts, Senate File 39, section 3.

351—4.33(68A,68B) Reporting of earmarked contributions. A political committee is permitted to receive contributions from its contributors which are earmarked to be donated to a specific candidate's committee or another political committee. A political committee receiving and transmitting earmarked contributions is required to list on its disclosure report the name of the contributor and the name of the candidate or committee for which the contribution was earmarked. The political committee is further required to inform the treasurer of the recipient committee in writing of the name of the individual contributor, as well as the name of the committee which has collected the contribution. The committee receiving the earmarked contribution is required to disclose on its report both the name of the individual contributor and the sponsoring committee.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.34(68A) Request for inactive status by county central committees—procedure. Rescinded IAB 6/22/05, effective 7/27/05.

351—4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC. Pursuant to Iowa Code section 68A.402(9), a permanent organization temporarily engaging in activity that exceeds the $750 financial filing threshold described in rule 351—4.1(68A,68B) is required to organize and register a political committee (PAC), file disclosure reports, and, upon completion of activity, file a notice of dissolution. A permanent organization that is temporarily a political committee shall comply with all of the campaign laws in Iowa Code chapter 68A and this chapter. A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

4.35(1) *Form DR-OTC.* A permanent organization that makes a one-time contribution in excess of $750 to a committee may, in lieu of filing a statement of organization, disclosure reports, and a notice of dissolution, file Form DR-OTC. The following information shall be disclosed on Form DR-OTC:

a. The name and address of the organization making the contribution.

b. The name and address of a contact person for the organization making the contribution.

c. The name and address of the campaign committee receiving the contribution. If the contribution is to a candidate or a candidate's committee, the source of the original funds used to make the contribution shall be disclosed.

d. The date and amount of the contribution. If the contribution is an in-kind contribution, a description of the provided goods or services must be included.

e. The date of election and the county in which the recipient committee is located if the committee is a county or local committee.

f. The signature and date of the individual filing Form DR-OTC.

A permanent organization that makes more than one contribution is not eligible to file Form DR-OTC and is required to file a statement of organization, file disclosure reports, and file a notice of dissolution.

4.35(2) *Place of filing.* Form DR-OTC shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-3701.

4.35(3) *Time of filing.* Form DR-OTC shall be filed with the board within ten days after the one-time contribution in excess of $750 is made. The form must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. A faxed Form DR-OTC must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

4.35(4) *Failure to register.* If the board discovers that a permanent organization has become subject to the provisions of Iowa Code Supplement chapter 68A but did not timely file a statement of organization or file Form DR-OTC, as applicable, the permanent organization is subject to the possible imposition of board sanctions.

4.35(5) *Partial refund of contribution.* A committee that receives a contribution from a permanent organization that causes the organization to become subject to the provisions of Iowa Code Supplement chapter 68A may refund all or part of a contribution to the organization so as to reduce the contribution to $750 or less and remove the organization's filing obligations.

This rule is intended to implement Iowa Code sections 68A.102(18) and 68A.402.

351—4.36(68A) Cash transactions. All disbursements, including all expenditures and any other withdrawals from committee funds, shall be by check, debit card, or credit card. Cash withdrawals and "petty cash" accounts are not permitted. If a committee fundraising activity necessitates a cash drawer for making change or other cash transactions, the committee may issue a check payable to the committee treasurer or the candidate, in the case of a candidate's committee, or payable to the committee treasurer or the committee chairperson, in the case of a political committee. The purpose of the expenditure shall be reported on Schedule B as "cash advance for (describe activity, e.g., concession stand cash drawer)." Upon completion of the fundraising activity, the committee shall redeposit the same amount as that which was advanced into the committee account. The redeposit shall be reported as a reverse entry on Schedule B as a "redeposit of cash advance for (describe activity)." The proceeds of the fundraising activity (excluding the cash advance) shall be reported on Schedule A - Contributions Received.

This rule is intended to implement Iowa Code sections 68A.203 as amended by 2005 Iowa Acts, House File 312, section 5, and 68A.402A.

351—4.37(68A,68B) Record keeping.

4.37(1) *Copies of reports.* A committee shall preserve a copy of every report it files for at least three years following the filing of the report.

4.37(2) *Supporting documentation.* The documentation which supports a committee's disclosure report shall be preserved by the committee for at least five years after the due date of the report that

covers the activity documented in the records; however, a committee is not required to preserve these records for more than three years from the certified date of dissolution of the committee. At a minimum, the supporting documentation shall consist of all of the following:

a. A ledger or similar record-keeping device which details all contributions received by the committee. This record shall include the name and address of each person making a contribution in excess of $10, with the date and amount of the contribution. In lieu of or in addition to a ledger, the committee may record contributions received through a receipt book or other method of individually documenting the contributions, such as by making and keeping copies of the contribution checks.

b. The check register for the committee's account(s).

c. Bank statements for the committee's account(s).

d. Copies of canceled or duplicate checks for committee expenditures, if available.

e. Copies of bills or receipts for committee expenditures.

f. For committees which pay reimbursement for committee-related mileage, copies of vehicle mileage logs, including travel dates, distance driven, and travel purpose (description of event or activity). For a candidate's committee which leases a vehicle, the mileage log shall detail all mileage driven on the vehicle, including non-committee-related mileage.

This rule is intended to implement Iowa Code Supplement sections 68A.203, 68A.302, 68A.402 and 68A.403 and Iowa Code section 68B.32A.

DIVISION III
POLITICAL MATERIAL—ATTRIBUTION STATEMENTS

351—4.38(68A) Political attribution statement—contents. Published material that expressly advocates the election or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue shall contain a statement identifying the person paying for the published material. This statement is referred to as the "attribution statement." The term "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, Internet Web site, campaign sign, or any other form of printed general public political advertising.

4.38(1) *Registered committee.* If the person paying for the published material is a committee that has filed a statement of organization, the words "paid for by" and the name of the committee shall appear on the material.

4.38(2) *Individual, married couple, or unregistered candidate's committee.* If the person paying for the published material is an individual, the words "paid for by" and the name and address of the individual shall appear on the material. Published material that is jointly paid for by a married couple shall include the words "paid for by" and the name and address of one member of the married couple. For purposes of this subrule, "individual" includes a candidate who has not filed a statement of organization to register a committee.

4.38(3) *Multiple individuals.* If more than one individual paid for the published material, the words "paid for by", the names of the individuals, and either the addresses of the individuals or a statement that the addresses of the individuals are on file with the Iowa ethics and campaign disclosure board shall appear on the material. The addresses shall be provided to the board and made available for public inspection.

4.38(4) *Organization or unregistered political committee.* If the person paying for the published material is an organization, the words "paid for by", the name and address of the organization, and the name of one officer of the organization shall appear on the material. For purposes of this subrule, "organization" includes an organization advocating the passage or defeat of a ballot issue but that has not filed a statement of organization to register a political committee.

4.38(5) *Pooled efforts.* If the published material is paid for by more than one person, the words "paid for by" and the identification of the persons as set out in this rule shall appear on the material.

This rule is intended to implement Iowa Code Supplement section 68A.405 as amended by 2004 Iowa Acts, House File 2319, section 4.

351—4.39(68A) Specific items exempted from or subject to attribution statement requirement; multiple pages. Iowa Code Supplement section 68A.405 requires the placement of a "paid for by" attribution statement on political advertising and political material, with certain exceptions.

4.39(1) *Items exempted from requirement.* The requirement to place a "paid for by" attribution statement does not apply to the following:

a. Editorials or news articles of a newspaper or magazine that are not political advertisements.

b. Small items upon which the inclusion of the attribution statement would be impracticable, such as yard signs, bumper stickers, pins, buttons, pens, pencils, emery boards, matchbooks and, except as set out in subrule 4.39(2), items that are smaller than 2 inches by 4 inches.

c. T-shirts, caps, and other articles of clothing.

d. Means of communication such as television and radio that are subject to federal regulations regarding an attribution requirement.

e. Political advertising or political material placed by an individual who acts independently and spends $100 or less of the individual's own money to expressly advocate the passage or defeat of a ballot issue.

For purposes of this subrule, "yard sign" means a political sign with a total dimension of 32 square feet or less, regardless of whether both sides of the sign are used, that has been placed or posted on real property.

4.39(2) *Items subject to requirement.* The requirement to place a "paid for by" attribution statement applies to the following:

a. Advertising such as yard signs larger than 32 square feet, billboards, posters, portable sign carriers, and signs affixed or painted to the side or top of a building or vehicle.

b. Advertisements in a newspaper, magazine, shopper, or other periodical regardless of the size of the advertisement.

c. Direct mailings, flyers, brochures, postcards, or any other form of printed general public advertising that is larger than 2 inches by 4 inches.

d. Campaign Web sites.

4.39(3) *Multiple pages.* If the political advertising or political material consists of more than one page, the "paid for by" attribution statement need only appear on one page of the advertising or material. For a campaign Web site, the attribution statement need only appear on the home page of the site.

This rule is intended to implement Iowa Code Supplement section 68A.405.

351—4.40(68A,68B) Newspaper or magazine. For the purposes of these rules and Iowa Code Supplement section 68A.405, "newspaper or magazine" means a regularly scheduled publication of news, articles of opinion, and features available to the general public which does not require membership in or employment by a specific organization.

This rule is intended to implement Iowa Code Supplement section 68A.405.

351—4.41(68A,68B) Apparent violations; remedial action.

4.41(1) *Administrative resolution.* In an effort to informally resolve apparent violations of the requirement to place a "paid for by" attribution statement, the board may order administrative resolution of the matter. The board may direct the person responsible for placing the original published political material that did not include the attribution statement to place a correction notice in a local newspaper that reaches the same or substantially the same portion of the public that received the original published political material. A person may also resolve a violation of the "paid for by" attribution statement by resending corrected published political material to the same portion of the public that received the original published political material and by filing a copy of the corrected material with the board.

4.41(2) *Form of correction notice.* The correction notice shall be in substantially the following form: "On (date) (describe the type of published political material) was distributed that did not state who paid for it. The (describe the type of published political material) was paid for by (insert name)."

4.41(3) *Board notice.* The board shall notify the person who paid for the original published political material of the requirements of this rule.

4.41(4) *Refusal to place correction notice.* The board may initiate a contested case proceeding and impose discipline against any person who refuses to place a correction notice under this rule.

This rule is intended to implement Iowa Code section 68A.405 and Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

351—4.42(56,68B) Specific items exempted from or subject to attribution statement requirement. Rescinded IAB 2/4/04, effective 3/10/04.

351—4.43(56,68B) Apparent violations; remedial actions. Rescinded IAB 2/4/04, effective 3/10/04.

DIVISION IV
CORPORATE POLITICAL ACTIVITY

351—4.44(68A,68B) Use of corporate property prohibited. It is unlawful for a candidate's committee or other political committee to use any property of a corporate entity, and it is unlawful for a corporate entity to knowingly permit the use of its property by a candidate's committee or other political committee. "Corporate entity" as used in these rules means any profit or nonprofit corporation, and includes, but is not limited to, farm corporations, professional corporations (P.C.s), banks, savings and loan institutions, credit unions and insurance companies. For the purpose of these rules, the prohibited use of the property of a corporate entity shall include, but not be limited to, the following:

4.44(1) The physical placement of campaign materials on corporate property except as permitted under Iowa Code sections 68A.406 and 68A.503.

4.44(2) The use of motor vehicles, telephone equipment, long-distance lines, computers, typewriters, office space, duplicating equipment and supplies, stationery, envelopes, labels, postage, postage meters or communication systems of corporate entities.

4.44(3) The use of corporate entity facilities, premises, recreational facilities and housing that are not ordinarily available to the general public.

4.44(4) The furnishing of beverages and other refreshments that are not ordinarily available to the general public.

4.44(5) The contributing of money of the corporate entity.

4.44(6) Any other transaction conducted between a corporation and a candidate's committee or political committee is presumed to be a corporate contribution unless the candidate's committee or political committee establishes to the contrary.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.45(68A,68B) Corporate-sponsored political committee. These rules do not prevent a corporate entity from soliciting eligible members to join or contribute to its own corporate-sponsored political committee (PAC), so long as the corporate entity adheres to the provisions of Iowa Code Supplement section 68A.503.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.46(68A) Voter education. These rules do not prevent a corporate entity from providing or publicizing voter registration procedures, election day information, voting procedures or other voter education information, so long as the information provided does not expressly advocate the election or defeat of a clearly identified candidate. Also, these rules do not prevent a candidate's committee from using a corporate computer to generate and file a campaign disclosure report so long as the report does not expressly advocate the election or defeat of a clearly identified candidate.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.47(68A,68B) Permitted activity—reimbursement required. The prohibitions against certain transactions between corporate entities and candidates or committees expressly advocating the election or defeat of candidates contained in Iowa Code Supplement section 68A.503 and in rule 4.44(68A,68B) are not construed to prohibit activity that occurs consistent with this rule.

4.47(1) *Purchase or rental of office facility.* A candidate's committee or any other committee that expressly advocates the election or defeat of a candidate may purchase or rent property belonging to a corporate entity, so long as the purchase or rental is at fair market value. For the purpose of this subrule, "fair market value" means the amount that a member of the general public would expect to pay to purchase or rent a similar property within the community in which the property is located.

4.47(2) *Use of corporate facilities to produce or mail materials.* Any person who uses the facilities of a corporate entity to produce or mail materials in connection with a candidate election is required to reimburse the corporate entity within a commercially reasonable time for the normal and usual charge for producing or mailing such materials in the commercial market. For example, if it would otherwise cost 10 cents per page to have a brochure copied at a commercial printer, the corporate entity must be reimbursed at 10 cents per page even if the overhead and operating cost is only 5 cents per page. Likewise, the corporate entity must be reimbursed at the first-class mail rate even if the direct cost to the corporate entity is less through the use of its bulk mail permit. This subrule does not affect the ability of a commercial vendor to charge an amount for postage which is less than for first-class mail where the reduced or bulk mail charge is available to all similarly situated customers without respect to the political identity of the customer.

4.47(3) *Use or rental of corporate facilities by other persons.* Persons other than stockholders, administrative officers or employees of a corporate entity who make any use of corporate facilities, such as using telephones, facsimile machines, typewriters or computers or borrowing office furniture for activity in connection with a candidate election, are required to reimburse the corporate entity within a commercially reasonable time in the amount of the normal and usual rental charge. If one or more telephones of a corporate entity are used as a telephone bank, a rebuttable presumption is established that $3 per telephone per hour, plus any actual long distance charges, is acceptable as a normal and usual rental charge.

4.47(4) *Use of airplanes and other means of transportation.*

a. *Air travel.* A candidate, candidate's agent, or person traveling on behalf of a candidate who uses noncommercial air transportation made available by a corporate entity shall, in advance, reimburse the corporate entity as follows:

(1) Where the destination is served by regularly scheduled commercial service, the coach class airfare (without discounts).

(2) Where the destination is not served by a regularly scheduled commercial service, the usual charter rate.

b. *Other transportation.* A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation made available by a corporate entity shall, within a commercially reasonable time, reimburse the corporate entity at the normal and usual rental charge.

4.47(5) *Equal access not required.* For the purpose of this rule, it is not necessary that the corporate entity be in the business of selling or renting the property, good or service to the general public; further, it is not necessary that the corporate entity provide access to the same property, good or service to other candidates or committees.

4.47(6) *Commercially reasonable time.* For the purpose of this rule, a rebuttable presumption is established that reimbursement to the corporate entity within ten business days is acceptable as within a commercially reasonable time.

4.47(7) *Loans and debts.* A financial institution may make a loan to a candidate or candidate's committee so long as the loan is repaid and all proper public disclosure of the transaction is made pursuant to rule 351—4.18(68A,68B). A candidate or candidate's committee may owe a debt to an insurance company, financial institution, or corporation so long as the debt is repaid and all proper public disclosure of the transaction is made pursuant to rule 351—4.16(68A,68B). The repayment of a loan or debt under this subrule shall be made prior to the dissolution of the committee pursuant to rule 351—4.57(68A,68B).

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.48(68A,68B) Use of corporate facilities for individual volunteer activity by stockholders, administrative officers and employees. Rescinded IAB 8/2/06, effective 9/6/06.

351—4.49(68A,68B) Individual property. These rules do not apply to the personal or real property of corporate officers or of individuals employed or associated with a corporate entity and shall not abridge the free-speech rights and privileges of individuals.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.50(68A) Political corporations. The prohibitions in Iowa Code Supplement section 68A.503 on corporations that make expenditures to expressly advocate for or against a clearly identified candidate do not apply to a nonprofit advocacy corporation that has received certification as a political corporation pursuant to this rule.

4.50(1) *Applicability.* A political corporation may make an independent expenditure as defined in Iowa Code Supplement section 68A.404(1) to expressly advocate for or against a clearly identified candidate. However, a political corporation may not make direct contributions to a candidate's committee, state statutory political committee, county statutory political committee, or any political committee (PAC) that is established to expressly advocate for or against a clearly identified candidate.

4.50(2) *Criteria.* A corporate entity applying for certification as a political corporation shall meet all of the following criteria:

a. The corporation was organized solely for political purposes and engages in minor business activities that generate minimal income and that are incidental to its political purposes.

b. The corporation is not sponsored by a business corporation and has a policy of accepting only an insignificant and insubstantial amount of income from business corporations.

c. The corporation has no shareholders or others that have claims on its assets or earnings.

4.50(3) *Application.* A corporate entity seeking certification as a political corporation shall submit a letter affirming that the corporate entity meets all of the criteria set out in subrule 4.50(2). The application letter shall also include all other pertinent details of the corporate entity's activities and shall be signed by a corporate officer.

4.50(4) *Board review.* The board shall review an application letter from a corporate entity seeking status as a political corporation and shall issue a letter of approval or denial.

4.50(5) *Denial or failure to seek certification.* It shall be deemed a violation of Iowa Code Supplement section 68A.503 for a corporate entity that is denied certification as a political corporation to make an independent expenditure that expressly advocates for or against a clearly identified candidate. It shall be deemed a violation of Iowa Code Supplement section 68A.503 for a corporation to make an independent expenditure that expressly advocates for or against a clearly identified candidate without first seeking certification as a political corporation.

4.50(6) *Filing.* As required by Iowa Code Supplement section 68A.404, a corporate entity granted political corporation status that makes an independent expenditure in excess of $750 in the aggregate shall file an independent expenditure statement within 48 hours after the making of the expenditure.

4.50(7) *Campaign committee incorporation.* An Iowa committee organized under Iowa Code Supplement chapter 68A that chooses to incorporate may do so without applying for certification as a political corporation. A committee that chooses to incorporate is not a prohibited contributor under Iowa Code Supplement section 68A.503.

This rule is intended to implement Iowa Code Supplement sections 68A.404 and 68A.503.

351—4.51(68A) Candidate debate—media organization; debate structure; debate funding; contribution reporting inapplicable. Iowa Code Supplement section 68A.503 prohibits corporations from making contributions to state or local candidates in Iowa. This prohibition does not apply to incorporated media organizations that host candidate debates described in this rule.

4.51(1) *Media organization defined.* "Media organization" means a broadcaster, cable television operator, television programmer, television producer, bona fide newspaper, magazine, or any other

periodical publication. The media organization shall not be owned or controlled by a political party, political committee, or candidate.

4.51(2) *Debate structure.* The structure of the debate shall be left to the discretion of the media organization provided that at least two or more candidates for the particular office are invited to participate. The debate shall not be structured to promote or advance one candidate over another. In choosing which candidates to invite to a debate, the media organization shall use good faith editorial judgment that is reasonable and viewpoint-neutral.

4.51(3) *Funding debates.* A media organization may use its own funds and may accept funds donated by corporations to defray costs incurred in staging a candidate debate under this rule.

4.51(4) *Contribution reporting inapplicable.* The costs of a debate under this rule are not a reportable monetary or in-kind contribution under Iowa Code Supplement section 68A.402.

This rule is intended to implement Iowa Code Supplement sections 68A.402 and 68A.503.

351—4.52(68A,68B) Corporate involvement with political committee funds.

4.52(1) *Corporate payroll deductions.* For purposes of interpretation of Iowa Code Supplement section 68A.503, the administrative functions performed by a corporation (profit or nonprofit corporation including, but not limited to, a bank, savings and loan institution, credit union or insurance company) to make payroll deductions for an employee organization's political committee and to transmit the deductions in lump sum to the treasurer of the political committee shall not be a prohibited corporate activity so long as the corporate entity is serving only as a conduit for the contributions.

4.52(2) *Electronic transfer of deposits.* A corporation, financial institution, or insurance company may receive and deposit checks that include both dues and PAC contributions. Contributions for the PAC shall be transferred as soon as possible into the PAC checking account and all disclosure, record-keeping, and record-retention requirements of Iowa Code chapter 68A shall be followed.

4.52(3) *Allowable costs of administration.* For the purposes of interpreting Iowa Code Supplement section 68A.503, subsection 3, which permits an entity otherwise forbidden from contributing to a candidate or a candidate's committee for "financing the administration of a committee sponsored by that entity," the following are considered to be allowable costs of administration:

a. Full or partial compensation for political committee staff, which may include both wages and benefits.

b. Expenses of transportation and travel incurred by political committee staff; however, this does not include expenses of transportation or travel if provided by a political committee or a staff member to a candidate, nor does this include expenses of meals or events held on behalf of a candidate.

c. Printing and office supplies related to routine office administration so long as the printing and supplies are not used to expressly advocate for or against any candidate.

d. Postage and stationery, including that necessary for mailing contributions to specific candidates. Postage and stationery necessary for distributing political material expressly advocating a specific candidate to persons other than the committee membership are not permitted.

e. Expenses of maintaining committee records and preparing financial disclosure reports, including costs associated with services provided by an accountant or other professional.

f. Promotional materials, such as stickers, pens, and coffee cups, so long as the items promote the political committee itself, but not a specific candidate.

An item which is excluded by this subrule from being an allowable cost of administration may still be provided by the committee, so long as that cost is paid for from contributions or other sources of funds other than the parent entity.

This rule is intended to implement Iowa Code Supplement section 68A.503.

DIVISION V
INDEPENDENT EXPENDITURES AND IN-KIND CONTRIBUTIONS

351—4.53(68A,68B) Express advocacy; in-kind contributions; independent expenditures—definitions. For the purposes of Iowa Code Supplement chapter 68A, the following definitions apply.

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

4.53(2) *In-kind contribution.* "In-kind contribution" means the provision of any good or service to a committee without charge or at a charge that is less than the usual and normal charge for such good or service. If a good or service is provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the good or service at the time of the contribution and the amount charged the committee. An in-kind contribution also includes any expenditure that meets the definition of a coordinated expenditure in subrule 4.53(4).

4.53(3) *Independent expenditure.* "Independent expenditure" means an expenditure by a person for goods or services, including express advocacy communication, on behalf of a candidate or a ballot issue which is not made with the knowledge and approval of a candidate or a ballot issue committee. "Independent expenditure" does not include incidental expenses (expenses of $25 or less per incident absorbed by the volunteer which result from or arise out of the volunteer work) incurred by an individual in performing volunteer work.

4.53(4) *Coordinated expenditure.* "Made with the knowledge and approval of a candidate or ballot issue committee" means that there has been arrangement, coordination, or direction by the candidate or an agent or officer of the candidate's committee or a ballot issue committee prior to the procurement or purchase of the good or service, or the publication, distribution, display, or broadcast of an express advocacy communication. This may also be referred to as a "coordinated expenditure." An expenditure will be presumed to be coordinated when it is:

a. Based on information provided to the expending person by the candidate, the candidate's committee, or the ballot issue committee with a view toward having an expenditure made; or

b. Made by or through any person who is or has been authorized to raise or expend funds; who is or has been an officer of the candidate's committee or the ballot issue committee; or who is or has been receiving any form of compensation or reimbursement from the candidate, the candidate's committee, or the ballot issue committee.

This rule is intended to implement Iowa Code Supplement section 68A.404.

DIVISION VI
COMMITTEE DISSOLUTION

351—4.54(68A) Committee dissolution; disposition of property; resolution of loans or debts. A committee shall not dissolve until all loans and debts are paid, forgiven, or transferred, and the remaining funds in the committee's campaign account are distributed according to Iowa Code sections 68A.302 and 68A.303 and rule 351—4.25(68A,68B). In the case of a candidate's committee, the disposition of all campaign property with a residual value of $100 or more must be accomplished before dissolution.

4.54(1) *Manner of disposition—candidates' committees.* A candidate's committee shall dispose of campaign property with a residual value of $100 or more through a sale of the property at fair market value, with proceeds treated as any other campaign funds, or through donation of the property as set out in Iowa Code section 68A.303(1). The candidate's committee shall disclose on the committee's campaign report the manner of disposition.

4.54(2) *Resolution of loans and debts.* The loans and debts of a committee may be transferred, assumed, or forgiven except that a loan or debt owed to a financial institution, insurance company, or corporation may not be forgiven unless the committee is a ballot issue committee. The committee shall

disclose on the committee's campaign report the transfer, assumption, or forgiveness of a loan or debt on the appropriate reporting schedules.

4.54(3) *Settlement of disputed loans and debts.* A dispute concerning a loan or debt may be resolved for less than the original amount if the committee discloses on the committee's campaign report the resolution of the dispute. If the dispute is between a candidate's committee and a financial institution, insurance company, or corporation, the candidate's committee shall submit a written statement to the board describing the loan or debt, the controversy, and the steps taken to settle or collect the loan or debt. The board will review the statement and determine whether to permit the candidate's committee to report the loan or debt as discharged.

4.54(4) *Unavailable creditor.* If the committee cannot locate a person to whom it owes a loan or debt, the committee shall provide the board with a written statement describing the steps the committee has taken to locate the creditor and shall request direction from the board as to what additional steps, if any, should be taken. If a candidate's committee owes a loan or debt to a financial institution, insurance company, or corporation, resolution of the matter shall include payment to a charitable organization or the general fund of the state of Iowa.

This rule is intended to implement Iowa Code section 68A.402B.

351—4.55(68A) Statement of dissolution; final report; final bank statement.

4.55(1) *Statement of dissolution.* A statement of dissolution (Form DR-3) shall be filed after the committee terminates its activity, disposes of its funds and assets, and has discharged all of its loans and debts. The statement shall be either typewritten or printed legibly in black ink and shall be signed by the person filing the statement. A statement of dissolution filed electronically using the board's Web site is deemed signed when filed.

4.55(2) *Place of filing.* Statements of dissolution shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Statements may also be filed by fax at (515)281-3701 or filed electronically through the board's Web site at www.iowa.gov/ethics.

4.55(3) *Time of filing.* A committee seeking dissolution shall file a statement of dissolution within 30 days of terminating activity, disposing of funds and assets, and discharging all loans and debts. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the required due date. Faxed or electronically filed statements must be submitted at or before 11:59 p.m. on the required due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the next working day.

4.55(4) *Final report.* The committee shall file a final report disclosing the committee's closing transactions. Once the board staff reviews the report and determines that the committee has complied with all of the requirements of Iowa Code chapter 68A, the committee is no longer required to file campaign reports. If the board staff determines that the committee has not complied with all of the requirements of Iowa Code chapter 68A, the committee, prior to being dissolved, shall resolve all issues.

4.55(5) *Final bank statement.* A copy of the committee's final bank statement showing the committee's closing transactions and a zero balance shall be attached to or submitted with the committee's final report. A committee participating in an election at the county, city, school, or other political subdivision level is not required to file a final bank statement unless requested to do so by the board. A committee seeking a waiver from the requirements of this subrule may do so in accordance with 351—Chapter 15.

This rule is intended to implement Iowa Code section 68A.402B.

351—4.56(68A,68B) Disposition of property for dissolution of committee. Rescinded IAB 6/22/05, effective 7/27/05.

351—4.57(68A,68B) Assumption or settlement of debts and obligations. Rescinded IAB 6/22/05, effective 7/27/05.

DIVISION VII
CIVIL PENALTIES FOR LATE REPORTS

351—4.58(68B) Late-filed campaign disclosure reports.

4.58(1) *Late reports.* A campaign disclosure report is deemed filed late if it is not received on or before the applicable due date as set out in rule 351—4.9(68A).

4.58(2) *Methods of filing.* A campaign disclosure report may be filed by any of the following methods: hand-delivered, mailed, faxed, sent as an E-mail attachment, or sent electronically via the Internet. The location for filing reports is set out in rule 351—4.8(68A,68B).

4.58(3) *Physical receipt.* A report must be physically received by the board as set out in rule 351—4.10(68A,68B).

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.59(68B) Routine civil penalty assessment for late-filed disclosure reports.

4.59(1) *Administrative resolution.* In administrative resolution of violations for late-filed disclosure reports, the board shall assess and collect monetary penalties for all late-filed disclosure reports. The board shall notify any person assessed a penalty of the amount of the assessment and the person's ability to request a waiver under rule 351—4.60(68B). A committee using the board's electronic filing system shall not be assessed a civil penalty if the board's electronic filing system is not properly functioning and causes the committee to be unable to timely file the report.

4.59(2) *County and local committee assessments.* County, city, school, other political subdivision, and local ballot issue committees shall be assessed civil penalties for late-filed reports in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same treasurer of a committee in 12-month period
1 to 14 consecutive days delinquent	$20	$50
15 to 30 consecutive days delinquent	$50	$100
31 to 45 consecutive days delinquent	$100	$200

4.59(3) *State committee assessments.* Statewide, general assembly, state statutory, and state political committees, and a judge standing for retention shall be assessed civil penalties for late-filed reports, except for supplementary and special election reports, in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same treasurer of a committee in 12-month period
1 to 14 consecutive days delinquent	$50	$100
15 to 30 consecutive days delinquent	$100	$200
31 to 45 consecutive days delinquent	$200	$300

4.59(4) *Supplementary report assessments.* General assembly candidates' committees required to file supplementary disclosure reports shall be assessed a $200 civil penalty for filing a supplementary report one or more days late. Statewide committees required to file supplementary disclosure reports shall be assessed a $400 civil penalty for filing a supplementary report one or more days late.

4.59(5) *Special election assessments.* The committees of general assembly candidates to fill vacancies in special elections shall be assessed a $100 civil penalty for filing a special election report one or more days late. The committees of statewide candidates to fill vacancies in special elections shall be assessed a $200 civil penalty for filing a special election report one or more days late.

4.59(6) *Verified statement of registration assessments.* An out-of-state committee that chooses to file a verified statement of registration (VSR) as provided in Iowa Code Supplement section 68A.201 and rule 351—4.32(68A), but fails to file the VSR on or before the fifteenth day after the date of the contribution, shall be assessed a $25 civil penalty per late-filed VSR. However, if there is a repeat delinquency by the committee in a 12-month period, the penalty shall be $50.

For purposes of this subrule, "date of the contribution" means the day, month and year the contribution check is dated.

4.59(7) *Independent expenditure assessment.* A person that is delinquent in filing an independent expenditure statement shall be assessed a $25 civil penalty for filing the statement one or more days delinquent, except that if there is a repeat delinquency by the person in timely filing an independent expenditure statement within a 12-month period, the penalty shall be $50.

4.59(8) *Form DR-OTC assessment.* A permanent organization that has not previously made a contribution in excess of $750 and that fails to file Form DR-OTC within ten days of notice to do so by the board shall be assessed a $20 civil penalty. A permanent organization that has previously made a contribution in excess of $750 and that fails to file Form DR-OTC within ten days of the date on which the contribution check is issued shall be assessed a $20 civil penalty.

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.60(68B) Requests for waiver of penalties. If a person believes that there are mitigating circumstances that prevented the timely filing of a report, the person may make a written request to the board for waiver of the penalty. A person seeking a waiver must submit the request to the board within 30 days of receiving a civil penalty assessment order. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or seek a contested case proceeding pursuant to rule 351—4.61(68B).

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.61(68B) Contested case challenge.

4.61(1) *Request.* If the person accepts administrative resolution of a matter through the payment of the assessed penalty, the matter shall be closed. If the person chooses to contest the board's decision to deny the request or grant a partial waiver of an assessed penalty, the person shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

4.61(2) *Procedure.* Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The hearing shall be conducted in accordance with the provisions of Iowa Code section 68B.32C and the board's rules. The burden shall be on the board's legal counsel to prove that a violation occurred.

4.61(3) *Failure to request hearing.* Failure to request a contested case proceeding to appeal the board's decision on a waiver request is failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A and Iowa Code section 68B.33.

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.62(68B) Payment of penalty.

4.62(1) *Where payment made.* Checks or money orders shall be made payable and forwarded to: Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Such funds shall be deposited in the general fund of the state of Iowa.

4.62(2) *Who may make payment.* Payment may be made at the person's discretion, including from funds of a committee or from personal funds of an officer of a committee. Payments from corporate entities as described in Iowa Code Supplement section 68A.503 are prohibited, except in the case of a ballot issue committee.

4.62(3) *Disclosure of payment.* If payment is made from a source other than committee funds and is for payment of an assessment to the committee, the payment shall be publicly disclosed as an in-kind contribution to the committee.

This rule is intended to implement Iowa Code Supplement sections 68A.503 and 68B.32A(8).

[Filed 10/17/95, Notice 8/25/75—published 11/3/75, effective under emergency provision 11/21/75]
[Filed 10/28/75, Notice 8/25/75—published 11/17/75, effective 12/22/75]
[Filed 11/26/75, Notice 8/25/75—published 12/15/75, effective 2/1/76]
[Amendment filed without notice 11/26/75—published 12/15/75]
[Filed emergency 2/11/76—published 3/8/76, effective 2/11/76]
[Filed 2/19/76, Notice 11/17/75—published 3/8/76, effective 4/12/76]
[Filed 4/1/76, Notice 11/17/75—published 4/19/76, effective 5/24/76]
[Filed 6/4/76—published 6/28/76, effective 8/2/76]
[Filed emergency 7/14/76—published 8/9/76, effective 7/14/76]
[Filed 1/7/77, Notice 12/1/76—published 1/26/77, effective 3/2/77]
[Filed 4/30/79, Notice 3/21/79—published 5/30/79, effective 7/4/79][1]
[Filed 8/29/80, Notice 5/28/80—published 9/17/80, effective 10/22/80]
[Filed 11/6/81, Notice 9/3/81—published 11/25/81, effective 1/1/82]
[Filed 11/4/83, Notice 8/3/83—published 11/23/83, effective 1/1/84]
[Filed 5/16/86, Notice 3/12/86—published 6/4/86, effective 9/3/86]
[Filed 8/21/87, Notice 6/17/87—published 9/9/87, effective 10/14/87]
[Filed 4/26/89, Notice 2/22/89—published 5/17/89, effective 6/21/89]
[Filed 4/23/92, Notice 2/19/92—published 5/13/92, effective 6/17/92]
[Filed 11/17/92, Notice 9/16/92—published 12/9/92, effective 1/13/93]
[Filed emergency 1/15/93—published 2/3/93, effective 1/15/93]
[Filed 9/23/93, Notice 4/28/93—published 10/13/93, effective 11/17/93]
[Filed 3/11/94, Notice 1/5/94—published 3/30/94, effective 5/4/94]
[Filed emergency 6/16/94—published 7/6/94, effective 6/16/94]
[Filed 7/29/94, Notice 5/25/94—published 8/17/94, effective 9/21/94]
[Filed 12/16/94, Notice 8/17/94—published 1/4/95, effective 2/8/95]◊
[Filed 7/28/95, Notice 5/24/95—published 8/16/95, effective 9/20/95]
[Filed 7/28/95, Notice 6/21/95—published 8/16/95, effective 9/20/95]◊
[Filed 10/6/95, Notice 7/19/95—published 10/25/95, effective 11/29/95]
[Filed 7/12/96, Notice 4/24/96—published 7/31/96, effective 9/4/96]◊
[Filed 10/18/96, Notice 8/28/96—published 11/6/96, effective 12/11/96]
[Filed 12/24/96, Notice 11/6/96—published 1/15/97, effective 2/19/97]
[Filed 6/13/97, Notice 5/7/97—published 7/2/97, effective 8/6/97]
[Filed 5/15/98, Notice 3/11/98—published 6/3/98, effective 7/8/98]◊
[Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
[Filed 3/3/99, Notice 1/13/99—published 3/24/99, effective 4/28/99]
[Filed emergency 6/9/99—published 6/30/99, effective 6/9/99]
[Filed 6/21/02, Notice 5/15/02—published 7/10/02, effective 8/14/02]◊
[Filed 8/1/02, Notice 6/12/02—published 8/21/02, effective 9/25/02]◊
[Filed 8/1/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]
[Filed 8/30/02, Notice 7/10/02—published 9/18/02, effective 10/23/02]
[Filed 11/1/02, Notice 8/21/02—published 11/27/02, effective 1/1/03]◊
[Filed 11/1/02, Notice 9/4/02—published 11/27/02, effective 1/1/03]◊
[Filed 4/23/03, Notice 3/5/03—published 5/14/03, effective 7/1/03]
[Filed 8/28/03, Notice 7/9/03—published 9/17/03, effective 10/22/03]◊
[Filed 8/28/03, Notice 7/23/03—published 9/17/03, effective 10/22/03]
[Filed 10/9/03, Notice 8/20/03—published 10/29/03, effective 12/3/03]◊
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]◊
[Filed 1/14/04, Notice 11/26/03—published 2/4/04, effective 3/10/04]◊
[Filed 2/6/04, Notice 12/24/03—published 3/3/04, effective 4/7/04]◊
[Filed 4/23/04, Notice 3/3/04—published 5/12/04, effective 6/16/04]◊
[Filed without Notice 4/29/04—published 5/26/04, effective 7/1/04]

[Filed without Notice 5/3/04—published 5/26/04, effective 7/1/04]
[Filed without Notice 5/4/04—published 5/26/04, effective 7/1/04]
[Filed 6/24/04, Notice 5/12/04—published 7/21/04, effective 8/25/04][◊]
[Filed 8/26/04, Notice 7/21/04—published 9/15/04, effective 10/20/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 1/28/05, Notice 11/10/04—published 2/16/05, effective 3/23/05][◊]
[Filed 1/28/05, Notice 12/22/04—published 2/16/05, effective 3/23/05]
[Filed 5/23/05, Notice 3/16/05—published 6/22/05, effective 7/27/05][◊]
[Filed without Notice 5/24/05—published 6/22/05, effective 7/27/05][◊]
[Filed 8/17/05, Notice 5/11/05—published 9/14/05, effective 10/19/05]
[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 1/25/06]
[Filed 12/2/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
[Filed 2/8/06, Notice 12/21/05—published 3/1/06, effective 4/5/06][◊]
[Filed 7/13/06, Notice 4/26/06—published 8/2/06, effective 9/6/06][◊]
[Filed 9/25/06, Notice 8/2/06—published 10/25/06, effective 11/29/06][◊]
[Filed 3/7/07, Notice 1/17/07—published 3/28/07, effective 5/2/07]
[Filed without Notice 7/11/07—published 8/1/07, effective 9/5/07][◊]
[Filed without Notice 7/12/07—published 8/1/07, effective 9/5/07][◊]
[Filed 4/2/08, Notice 2/13/08—published 4/23/08, effective 5/28/08]
[Filed 9/2/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed without Notice 9/5/08—published 9/24/08, effective 10/29/08][◊]

◊ Two or more ARCs

1 Effective date of rule 4.16 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).

CHAPTER 8
EXECUTIVE BRANCH LOBBYING
[Prior to 11/26/03, see 351—Ch 13]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

351—8.7(68B) Lobbyist registration required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. The lobbyist's name and address.

b. The reporting period covered by the filed report, including disclosing whether the report is an original or amended report.

c. The lobbyist's clients.

d. The recipient and amount of campaign contributions made by the lobbyist to candidates for state office. Campaign contributions shall not be made to state officers during the time period described in Iowa Code Supplement section 68A.504 and rule 351—8.15(68A).

e. Expenditures made by the lobbyist for executive branch lobbying purposes.

f. The lobbyist's signature and the date filed. Reports filed electronically through the board's Web site are deemed signed and dated when filed.

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

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

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

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

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

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

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

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

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

a. The name and address of the client, including a contact person.

b. The name of the client's lobbyists.

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

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

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

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

This rule is intended to implement Iowa Code section 68B.38 as amended by 2004 Iowa Acts, Senate File 2179, section 13.

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

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

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

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

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

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

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

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

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

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

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

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

351—8.13(68B) Contested case proceeding.

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

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

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

This rule is intended to implement Iowa Code sections 68B.32A(4), 68B.32A(8), and 68B.33.

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

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

351—8.15(68A) Campaign contributions by lobbyists during the regular legislative session prohibited. Pursuant to Iowa Code Supplement section 68A.504, individuals who are registered in Iowa as either executive branch or legislative branch lobbyists are prohibited from contributing to, acting as an agent or intermediary for contributions to, or arranging for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office on any day during the regular legislative session.

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

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

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

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

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

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

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

This rule is intended to implement Iowa Code Supplement section 68A.504.

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

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

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

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

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

351—8.17(68B) Ban on certain lobbying activities by government personnel. Executive branch officials and executive branch employees are prohibited by Iowa Code section 68B.5A from engaging in certain types of lobbying activities during the time in which these officials and employees serve or are employed by the state. In addition, Iowa Code section 68B.5A prohibits executive branch officials and executive branch employees from accepting, under certain situations, employment as lobbyists within two years of leaving state government.

8.17(1) A person who serves as a statewide elected official, the executive or administrative head of an agency, or the deputy executive or administrative head of an agency shall not act as a lobbyist during the time in which the person serves or is employed by the state unless the person is designated to

represent the official position of the person's agency. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government.

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

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

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

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

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

351—8.18(68B) False communications prohibited.

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

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

a. A fictitious person; or

b. A real person except with the consent of that person.

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

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

351—8.19(68B) Advisory opinions. Any person under the board's jurisdiction that is affected by Iowa Code chapter 68B or 351—Chapter 8 may seek an advisory opinion from the board pursuant to rules 351—1.2(68B) and 1.3(68B). The purpose of a board opinion is to apply a statute or rule to a particular factual situation. Advice contained in a board opinion, if followed, constitutes a defense to a subsequently filed complaint.

This rule is intended to implement Iowa Code section 68B.32A(11).

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

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

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

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

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

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

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

This rule is intended to implement Iowa Code Supplement section 68B.32A(4).

[Filed 3/11/94, Notice 1/5/94—published 3/30/94, effective 5/4/94]
[Filed 12/16/94, Notice 8/17/94—published 1/4/95, effective 2/8/95]
[Filed 7/12/96, Notice 4/24/96—published 7/31/96, effective 9/4/96]
[Filed 10/18/96, Notice 8/28/96—published 11/6/96, effective 12/11/96]
[Filed 10/3/97, Notice 7/2/97—published 10/22/97, effective 1/3/98]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 4/23/04, Notice 3/3/04—published 5/12/04, effective 7/1/04]
[Filed Without Notice 4/23/04—published 5/12/04, effective 7/1/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]◊
[Filed 5/23/05, Notice 3/16/05—published 6/22/05, effective 7/27/05]
[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 1/25/06]
[Filed 4/2/08, Notice 2/13/08—published 4/23/08, effective 5/28/08]
[Filed 9/2/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

◊ Two or more ARCs

CHAPTER 65
ANIMAL FEEDING OPERATIONS

[Prior to 7/1/83, DEQ Ch 20]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

DIVISION I
CONFINEMENT FEEDING OPERATIONS

567—65.1(455B) Definitions. In addition to the definitions in Iowa Code sections 455B.101 and 455B.171 and Iowa Code section 459.102, the following definitions shall apply to Division I of this chapter:

"Abandoned confinement feeding operation structure" means the confinement feeding operation structure has been razed, removed from the site of a confinement feeding operation, filled in with earth, or converted to uses other than a confinement feeding operation structure so that it cannot be used as a confinement feeding operation structure without significant reconstruction.

"Adjacent" means, for the purpose of determining separation distance requirements pursuant to 65.11(455B), that two or more confinement feeding operations are adjacent if they have animal feeding operation structures that are separated at their closest points by less than the following:

1. 1,250 feet for confinement feeding operations with animal weight capacity less than 1,250,000 pounds for animals other than bovine, or less than 4,000,000 pounds for bovine.
2. 1,500 feet for confinement feeding operations with animal weight capacity from 1,250,000 pounds to less than 2,000,000 pounds for animals other than bovine; from 1,250,000 pounds to less than 2,500,000 pounds for swine in a farrow-to-finish operation; or 4,000,000 pounds to less than 6,000,000 pounds for bovine.
3. 2,500 feet for confinement feeding operations with animal weight capacity of 2,000,000 or more pounds for animals other than bovine; 2,500,000 or more pounds for swine in a farrow-to-finish operation; or 6,000,000 or more pounds for bovine.
4. These distances shall only be used to determine that two or more confinement feeding operations are adjacent if the animal feeding operation structure is constructed after March 20, 1996.
5. To determine if two or more confinement feeding operations are adjacent, the animal weight capacity of each individual operation shall be used. If two or more confinement feeding operations are not in the same animal weight capacity category, the greater animal weight capacity shall be used to determine the separation distance.

"Adjacent" means, for the purpose of determining whether a permit is required pursuant to 65.7(455B), that two or more confinement feeding operations are adjacent if they have animal feeding operation structures that are separated at their closest points by less than the following:

1. 1,250 feet for confinement feeding operations with combined animal weight capacity less than 625,000 pounds for animals other than bovine, or less than 1,600,000 pounds for bovine.
2. 2,500 feet for confinement feeding operations with combined animal weight capacity of 625,000 or more pounds for animals other than bovine, or 1,600,000 or more pounds for bovine.
3. These distances shall only be used to determine that two or more confinement feeding operations are adjacent if the animal feeding operation structure is constructed or expanded on or after May 21, 1998.

"Aerobic structure" means an animal feeding operation structure other than an egg washwater storage structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.

"Agricultural drainage well" means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

"Agricultural drainage well area" means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

"Anaerobic lagoon" means an unformed manure storage structure, if the primary function of the structure is to store and stabilize manure, the structure is designed to receive manure on a regular basis, and the structure's design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include the following:

1. A runoff control basin which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

2. An anaerobic treatment system that includes collection and treatment facilities for all off gases.

"Animal" means a species classified as cattle, swine, horses, sheep, chickens or turkeys.

"Animal capacity" means the maximum number of animals which the owner or operator will confine in an animal feeding operation at any one time. In a confinement feeding operation, the animal capacity of all confinement buildings will be included in the determination of the animal capacity of the operation, unless the building has been abandoned in accordance with the definition of "abandoned animal feeding operation structure."

"Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. An animal feeding operation does not include a livestock market. Open feedlots and confinement feeding operations are considered to be separate animal feeding operations.

1. For purposes of water quality regulation, Iowa Code section 455B.200B as amended by 2002 Iowa Acts, chapter 1137, section 31, provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. For purposes of the separation distances in Iowa Code section 455B.162, Iowa Code section 455B.161A as amended by 2002 Iowa Acts, chapter 1137, section 9, provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. The distinction is due to regulation of animal feeding operations for water quality purposes under the federal Clean Water Act. The Code of Federal Regulations at 40 CFR §122.23 (1995) sets out the requirements for an animal feeding operation and requires that two or more animal feeding operations under common ownership be considered a single operation if they adjoin each other or if they use a common area or system for manure disposal. However, this federal regulation does not control regulation of animal feeding operations for the purposes of the separation distances in Iowa Code section 455B.162, and therefore the definition is not required by federal law to include common areas for manure disposal.

2. To determine if two or more animal feeding operations are deemed to be one animal feeding operation, the first test is whether the animal feeding operations are under common ownership or management. If they are not under common ownership or management, they are not one animal feeding operation. For purposes of water quality regulation, the second test is whether the two animal feeding operations are adjacent or utilize a common area or system for manure disposal. If the two operations are not adjacent and do not use a common area or system for manure disposal, they are not one animal feeding operation. For purposes of the separation distances in Iowa Code section 455B.162, the second test is whether the two animal feeding operations are adjacent or utilize a common system for manure storage. If the two operations are not adjacent and do not use the same system for manure storage, they are not one animal feeding operation.

"Animal feeding operation structure" means a confinement building, manure storage structure, or egg washwater storage structure.

"Animal unit" means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor, as follows:

1. Slaughter and feeder cattle 1.000
2. Immature dairy cattle 1.000
3. Mature dairy cattle 1.400
4. Butcher or breeding swine weighing more than 55 pounds 0.400
5. Swine weighing 15 pounds or more but not more than 55 pounds 0.100
6. Sheep or lambs 0.100
7. Horses 2.000
8. Turkeys 0.018
9. Broiler or layer chickens 0.010

"Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in Iowa Code sections 455B.161A as amended by 2002 Iowa Acts, chapter 1137, section 9, and 455B.200B as amended by 2002 Iowa Acts, chapter 1137, sections 3 to 32.

"Animal weight capacity" means the sum of the average weight of all animals in a confinement feeding operation when the operation is at full animal capacity. For confinement feeding operations with only one species, the animal weight capacity is the product of multiplying the animal capacity by the average weight during a production cycle. For operations with more than one species, the animal weight capacity of the operation is the sum of the animal weight capacities for all species.

EXAMPLE 1. Bill wants to construct a confinement feeding operation with two confinement buildings and an earthen manure storage basin. The capacity of each building will be 900 market hogs. The hogs enter the building at 40 pounds and leave at 250 pounds. The average weight during the production cycle is then 145 pounds for this operation. The animal weight capacity of the operation is 145 pounds multiplied by 1800 for a total of 261,000 pounds.

EXAMPLE 2. Howard is planning to build a confinement feeding operation with eight confinement buildings and an egg washwater storage lagoon. The capacity of each building will be 125,000 laying hens. The hens enter the building at around 2.5 pounds and leave at around 3.5 pounds. The average weight during the production cycle for these laying hens is 3.0 pounds. Manure will be handled in dry form. The animal weight capacity of the operation is 3.0 pounds multiplied by 1,000,000 for a total of 3,000,000 pounds.

EXAMPLE 3. Carol has an animal feeding operation with four confinement buildings with below floor formed concrete manure storage tanks and one open feedlot. One confinement building is a farrowing building with a capacity of 72 sows. One confinement building is a nursery building with a capacity of 1,450 pigs. The open feedlot contains 425 sows. Two of the confinement buildings are finishing buildings with a capacity of 1,250 market hogs. The farrowing building contains 72 sows at an average weight of 400 pounds for an animal weight capacity of 28,800 pounds. The nursery building contains 1,450 pigs with an average weight over the production cycle of 25 pounds for an animal weight capacity of 36,250 pounds. The two finishing buildings contain 2,500 market hogs (combined) with an average weight over the production cycle of 150 pounds for an animal weight capacity of 375,000 pounds. The total animal weight capacity of the confinement feeding operation is 440,050 pounds. The weights of the animals in open lots are not included in the calculation of the animal weight capacity of the confinement feeding operation.

"Applicant" means the person applying for a construction or operation permit for an animal feeding operation. The applicant shall be the owner or owners of the animal feeding operation.

"Business" means a commercial enterprise.

"Cemetery" means a space held for the purpose of permanent burial, entombment or interment of human remains that is owned or managed by a political subdivision or private entity, or a cemetery regulated pursuant to Iowa Code chapter 523I or 566A. A cemetery does not include a pioneer cemetery where there have been six or fewer burials in the preceding fifty years.

"Church" means a religious institution.

"Commercial enterprise" means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general

public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

"Commercial manure service" means a sole proprietor or business association engaged in the business of transporting, handling, storing, or applying manure for a fee.

"Commercial manure service representative" means a manager, employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the service.

"Common management" means significant control by a person of the management of the day-today operations of each of two or more animal feeding operations.

"Common ownership" means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

"Confinement feeding operation" means an animal feeding operation in which animals are confined to areas which are totally roofed.

"Confinement feeding operation building" or *"confinement building"* means a building used in conjunction with a confinement feeding operation to house animals.

"Confinement feeding operation structure" means an animal feeding operation structure that is part of a confinement feeding operation.

"Confinement site" means a site where there is located a manure storage structure which is part of a confinement feeding operation, other than a small animal feeding operation.

"Confinement site manure applicator" means a person, other than a commercial manure service or a commercial manure service representative, who applies manure on land if the manure originates from a manure storage structure.

"Construction permit" means a written approval of the department to construct an animal feeding operation structure.

"Controlling interest" means ownership of a confinement feeding operation as a sole proprietor or a majority ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a controlling interest when it is held directly, indirectly through a spouse or dependent child, or both. The majority ownership interest must be a voting interest or otherwise control management of the confinement feeding operation.

"Covered" means organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.

"Critical public area" means land that is owned or managed by the federal government, by the department, or by a political subdivision and that has unique scenic, cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system. Critical public areas include:

- State wildlife refuges listed in 571—subrule 52.1(2);
- Recreation areas, state parks, state parks managed by another governmental agency, and state preserves as listed in 571—61.2(461A);
- County parks and recreation areas listed in "Outdoor Adventure Guide," May 2002, Iowa Association of County Conservation Boards, which is incorporated by reference and is on file in the state law library;

- National wildlife refuges listed on the "Iowa Map Page," June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at http://midwest.fws.gov/maps/iowa.htm;
- National monuments and national historic sites listed on the "National Park Service Guide for Iowa," June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at http://165.83.219.77/parksearch/state/state.cfm? statevar=ia;
- Parks in Iowa that are under the jurisdiction of the U.S. Army Corps of Engineers and listed in "Lakeside Recreation for the Upper Mississippi Basin States," June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at http://www.usace.army.mil/inet/functions/cw/cecwo/uppermis.htm.

"Cropland" means any land suitable for use in agricultural production including, but not limited to, feed, grain and seed crops, fruits, vegetables, forages, sod, trees, grassland, pasture and other similar crops.

"Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface tile inlet, drinking water well, designated wetland, lake, or water source. A designated area does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

"Designated wetland" means land designated as a protected wetland by the United States Department of the Interior or the department of natural resources, including but not limited to a protected wetland as defined in Iowa Code section 456B.1, if the land is owned and managed by the federal government or the department of natural resources. However, a designated wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district. Designated wetlands in the state are listed in "Designated Wetlands in Iowa," effective August 23, 2006, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at http://www.iowadnr.gov/afo/files/deswetlands.pdf.

"Discontinued animal feeding operation" means an animal feeding operation whose structures have been abandoned or whose use has been discontinued as evidenced by the removal of all animals and the owner or operator has no immediate plans to repopulate.

"Discontinued animal feeding operation structure" means an animal feeding operation structure that has been abandoned or whose use has been discontinued as evidenced by the removal of all animals from the structure and the owner or operator has no immediate plans to repopulate.

"Document" means any form required to be processed by the department under this chapter regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in Iowa Code section 455B.200A as amended by 2002 Iowa Acts, chapter 1137, sections 28 and 29, manure management plans as provided in Iowa Code section 455B.203 as amended by 2002 Iowa Acts, chapter 1137, sections 38 to 41, comment or evaluation by a county board of supervisors considering an application for a construction permit, the department's analysis of the application including using and responding to a master matrix pursuant to 2002 Iowa Acts, chapter 1137, section 35, and notices required under those sections.

"Earthen manure storage basin" means an earthen cavity, either covered or uncovered, which, on a regular basis, receives manure discharges from a confinement feeding operation if accumulated manure from the basin is completely removed at least once each year.

"Earthen waste slurry storage basin" means an uncovered and exclusively earthen cavity which, on a regular basis, receives manure discharges from a confinement animal feeding operation if accumulated manure from the basin is completely removed at least twice each year and which was issued a permit, constructed or expanded on or after July 1, 1990, but prior to May 31, 1995.

"Educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts,

accredited or approved nonpublic schools, area educational agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

"Egg washwater storage structure" means an aerobic or anaerobic structure used to store the wastewater resulting from the washing and in-shell packaging of eggs. It does not include a structure also used as a manure storage structure.

"Enforcement action" means an action against a confinement feeding operation initiated by the department or the attorney general to enforce the provisions of Iowa Code chapter 455B or rules adopted pursuant to the chapter. An enforcement action begins when the department issues an administrative order to the person, when the department notifies a person in writing of intent to recommend referral or the commission refers the action to the attorney general pursuant to Iowa Code section 455B.141 or 455B.191, or when the attorney general institutes proceedings pursuant to section 455B.112, whichever occurs first. An enforcement action is pending until final resolution of the action by satisfaction of an administrative order; rescission or other final resolution of an administrative order or satisfaction of a court order, for which all administrative and judicial appeal rights are exhausted, expired, or waived.

"Family" means persons related to each other as spouse, parent, grandparent, sibling, and other lineal descendants of the grandparents or their spouses.

"Family farm member" means a person who participates in the same agricultural operation with a spouse, parent, grandparent, child, grandchild or sibling.

"Family member" means a person related to another person as parent, grandparent, child, grandchild, sibling, or a spouse of such related person.

"Formed manure storage structure" means a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.

"Freeboard" means the difference in elevation between the liquid level and the top of the lowest point of animal feeding operation structure's berm or the lowest external outlet from a formed manure storage structure. However, for a formed manure storage structure meeting the requirements of 65.15(20, "freeboard" means the difference in elevation between the liquid level and the structure's overflow level.

"Grassed waterway" means a natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

"Highly erodible land" means a field that has one-third or more of its acres or 50 acres, whichever is less, with soils that have an erodibility index of eight or more, as determined by rules promulgated by the United States Department of Agriculture.

"Human sanitary waste" means wastewater derived from domestic uses including bathroom and laundry facilities generating wastewater from toilets, baths, showers, lavatories and clothes washing.

"Incidental" means a duty which is secondary or subordinate to a primary job or function.

"Incorporation" means a soil tillage operation following the surface application of manure which mixes the manure into the upper four inches or more of soil.

"Indemnity fund" means the manure storage indemnity fund created in Iowa Code section 455J.2.

"Injection" means the application of manure into the soil surface using equipment that discharges it beneath the surface.

"Interest" means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The ownership interest is an interest when it is held directly, indirectly through a spouse or dependent child, or both.

"Internet" means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the World Wide Web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

"Karst terrain" means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an unformed manure storage structure and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain.

"Livestock market" means any place where animals are assembled from two or more sources for public auction, private sale, or on a commission basis, which is under state or federal supervision, including a livestock sale barn or auction market, if such animals are kept for ten days or less.

"Low-pressure irrigation system" means spray irrigation equipment which discharges manure from a maximum height of 9 feet in a downward direction, and which utilizes spray nozzles which discharge manure at a maximum pressure of 25 pounds per square inch.

"Major water source" means a water source that is a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Table 1 and Table 2 at the end of this chapter.

"Manager" means a person who is actively involved in the operation of the service and makes management decisions in the operation of a commercial manure service.

"Man-made manure drainage system" means a drainage ditch, flushing system, or other drainage device which was constructed by human beings and is used for the purpose of transporting manure.

"Manure" means animal excreta or other commonly associated wastes of animals including, but not limited to, bedding, litter, or feed losses. Manure does not include wastewater resulting from the washing and in-shell packaging of eggs.

"Manure storage structure" means a formed manure storage structure or an unformed manure storage structure. A manure storage structure does not include an egg washwater storage structure.

"New animal feeding operation" means an animal feeding operation whose construction was begun after July 22, 1987, or whose operation is resumed after having been discontinued for a period of 12 months or more.

"Nonpublic water supply" means a water system that has fewer than 15 service connections or serves fewer than 25 people, or one that has more than 15 service connections or serves more than 25 people for less than 60 days a year.

"One hundred year flood plain" means the land adjacent to a major water source, if there is at least 1 percent chance that the land will be inundated in any one year, according to calculations adopted by rules adopted pursuant to Iowa Code section 459.103. In making the calculations, the department shall consider available maps or data compiled by the Federal Emergency Management Agency.

"Operation permit" means a written permit of the department authorizing the operation of a manure control facility or part of one.

"Owner" means the person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operation structures. It does not include a person who has a lease to use the land where the animal feeding operation is located or to use the animal feeding operation structures.

"Permanent vegetation cover" means land which is maintained in perennial vegetative cover consisting of grasses, legumes, or both, and includes, but is not limited to, pastures, grasslands or forages.

"Primary highway" means a road designated as an interstate, U.S. highway or state highway in the 2002 Iowa Transportation Map, including streets in municipalities under the jurisdiction of the department of transportation.

"Professional engineer" means a person engaged in the practice of engineering as defined in Iowa Code section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to Iowa Code section 542B.17.

"Public thoroughfare" means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

"Public use area" means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 at the end of this chapter, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

"Public water supply" (also referred to as a system or a water system) means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water supply system is either a "community water system" or a "noncommunity water system."

"Q100," as defined in 567—70.2(455B,481A), means a flood having a 1 percent chance of being equaled or exceeded in any one year as determined by the department.

"Qualified confinement feeding operation" means a confinement feeding operation which has an animal unit capacity of:

1. 5,333 or more for animals other than swine as part of a farrowing and gestating operation or farrow-to-finish operation or cattle as part of a cattle operation;
2. 2,500 or more for a swine farrowing and gestating operation;
3. 5,400 or more for a swine farrow-to-finish operation;
4. 8,500 or more for a confinement feeding operation maintaining cattle.

"Release" means an actual, imminent or probable discharge of manure from an animal feeding operation structure to surface water, groundwater, drainage tile line or intake, or to a designated area resulting from storing, handling, transporting or land-applying manure.

"Religious institution" means a building in which an active congregation is devoted to worship.

"Research college" means an accredited public or private college or university, including but not limited to a university under control of the state board of regents as provided in Iowa Code chapter 262, or a community college under the jurisdiction of a board of directors for a merged area as provided in Iowa Code chapter 260C, if the college or university performs research or experimental activities regarding animal agriculture or agronomy.

"Residence" means a house or other building, including all structures attached to the building, not owned by the owner of the animal feeding operation, which meets all of the following criteria at the location of the intended residence:

1. Used as a place of habitation for humans on a permanent and frequent basis.
2. Not readily mobile.
3. Connected to a permanent source of electricity, a permanent private water supply or a public water supply system and a permanent domestic sewage disposal system including a private, semipublic or public sewage disposal system.
4. Assessed and taxed as real property.

If a house or other building has not been occupied by humans for more than six months in the last two years, or if a house or other building has been constructed or moved to its current location within six months, the owner of the intended residence has the burden of proving that the house or other building is a residence. Paragraph "3" shall not apply to a house or other building inhabited by persons who are exempt from the compulsory education standards of Iowa Code section 299.24 and whose religious principles or tenets prohibit the use of the utilities listed.

"Restricted spray irrigation equipment" means spray irrigation equipment which disperses manure through an orifice at a rate of 80 pounds per square inch or more.

"School" means an educational institution.

"Seasonal high water table" means the part of the soil profile closest to the soil surface that becomes saturated (usually in the spring) as observed in a monitoring well or determined by recognition of soil redoxomorphic features.

NOTE: "Redoxomorphic features" refers to the gleying or mottling or both that occur under saturated conditions within the soil profile.

"Secondary containment barrier" means a structure used to retain accidental manure overflow from a manure storage structure.

"Shallow well" means a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Small animal feeding operation" means an animal feeding operation which has an animal unit capacity of 500 or fewer animal units.

"Spray irrigation equipment" means mechanical equipment used for the aerial application of manure, if the equipment receives manure from a manure storage structure during application via a pipe or hose connected to the structure, and includes a type of equipment customarily used for aerial application of water to aid the growing of general farm crops.

"Substantial improvements" means increasing the animal unit capacity of a facility by 1 percent through 150 percent.

"Substantial labor" means providing 50 percent or more of the total annual hours of physical work necessary to maintain animals in a confinement feeding operation.

"Swine farrow-to-finish operation" means a confinement feeding operation in which porcine are produced and in which a primary portion of the phases of the production cycle is conducted at one confinement feeding operation. Phases of the production cycle include, but are not limited to, gestation, farrowing, growing and finishing. At a minimum, farrowing, growing, and finishing shall be conducted at the operation with a majority of the pigs farrowed at the site finished to market weight in order to qualify as a farrow-to-finish operation.

"Thoroughfare" means a road, street, bridge or highway open to the public and constructed or maintained by the state or a political subdivision.

"Unformed manure storage structure" means a covered or uncovered impoundment used to store manure, other than a formed manure storage structure, which includes an anaerobic lagoon, aerobic structure, or earthen manure storage basin.

"Watercourse" means any lake, river, creek, ditch, or other body of water or channel having definite banks and bed with water flow or the occurrence of water, except lakes or ponds without outlet to which only one landowner is riparian. Watercourse does not include water flow or the occurrence of water in a terrace, grassed waterway, solids settling basin, road ditch, areas subject to rill erosion, or other similar areas.

"Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"Water source" means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

"Wetted perimeter" means the outside edge of land where the direct discharge of manure occurs from spray irrigation equipment.

567—65.2(455B) Minimum manure control requirements and reporting of releases. Water pollution control facilities shall be constructed and maintained to meet the minimum manure control requirements stated in subrules 65.2(1) to 65.2(8) of this rule. A release shall be reported to the department as provided in subrule 65.2(9) of this rule.

65.2(1) Rescinded IAB 9/14/05, effective 9/14/05.

65.2(2) Rescinded IAB 9/14/05, effective 9/14/05.

65.2(3) The minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to waters of the state.

a. Control of manure from confinement feeding operations may be accomplished through use of manure storage structures or other manure control methods. Sufficient capacity shall be provided in the manure storage structure to store all manure between periods of manure application. Additional capacity shall be provided if precipitation, manure or wastes from other sources can enter the manure storage structure.

b. Manure shall be removed from the control facilities as necessary to prevent overflow or discharge of manure from the facilities. Manure stored in unformed manure storage structures or earthen waste slurry storage basins shall be removed from the structures as necessary to maintain a minimum of two feet of freeboard in the structure, unless a greater level of freeboard is required to maintain the structural integrity of the structure or prevent manure overflow. Manure stored in unroofed formed manure storage structures shall be removed from the structures as necessary to maintain a minimum of one foot of freeboard in the structure unless a greater level of freeboard is required to maintain the structural integrity of the structure or prevent manure overflow.

c. To ensure that adequate capacity exists in the manure storage structure to retain all manure produced during periods when manure application cannot be conducted (due to inclement weather conditions, lack of available land disposal areas, or other factors), the manure shall be removed from the manure storage structure as needed prior to these periods.

65.2(4) If site topography, operation procedures, experience, or other factors indicate that a greater or lesser level of manure control than that specified in subrule 65.2(1), 65.2(2), or 65.2(3) is required to provide an adequate level of water pollution control for a specific animal feeding operation, the department may establish different minimum manure control requirements for that operation.

65.2(5) In lieu of using the manure control methods specified in subrule 65.2(1), 65.2(2), or 65.2(3), the department may allow the use of manure treatment or other methods of manure control if it determines that an adequate level of manure control will result.

65.2(6) No direct discharge shall be allowed from an animal feeding operation into a publicly owned lake, a sinkhole, or an agricultural drainage well.

65.2(7) All manure removed from an animal feeding operation or its manure control facilities shall be land-applied in a manner which will not cause surface or groundwater pollution. Application in accordance with the provisions of state law, and the rules and guidelines in this chapter, shall be deemed as compliance with this requirement.

65.2(8) As soon as practical but not later than six months after the use of an animal feeding operation is discontinued, all manure shall be removed from the discontinued animal feeding operation and its manure control facilities and be land-applied.

65.2(9) A release, as defined in rule 65.1(455B), shall be reported to the department as provided in this subrule. This subrule does not apply to land application of manure in compliance with these rules.

a. Notification. A person storing, handling, transporting, or land-applying manure from a confinement feeding operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the department at (515)281-8694. The local police department or the office of the sheriff of the affected county shall also be contacted within the same time period if the spill involves a public roadway and public safety could be threatened. Reports made pursuant to this rule shall be confirmed in writing as provided in 65.2(9)*"c."*

b. Verbal report. The verbal report of such a release should provide information on as many items listed in 65.2(9)*"c"* as available information will allow.

c. Written report. The written report of a release shall be submitted at the request of the department within 30 days after the verbal report of the release and contain at a minimum the following information:

(1) The approximate location of alleged release (including at a minimum the quarter-quarter section, township and county in which the release occurred or was discovered).

(2) The time and date of onset of the alleged release, if known, and the time and date of the discovery of the alleged release.

(3) The time and date of the verbal report to the department of the release.

(4) The name, mailing address and telephone number of the person reporting the release.

(5) The name, mailing address and telephone number of any other person with knowledge of the event who can be contacted for further information.

(6) The source of the manure allegedly released (e.g., formed storage, earthen storage).

(7) The estimated or known volume of manure allegedly released.

(8) The weather conditions at the time of the onset or discovery of the release.

(9) If known, the circumstances under which the alleged release occurred or exists (e.g., overflow, storage structure breach, equipment malfunction or breakdown, land runoff).

(10) The approximate location of the nearest stream or other water body which is or could be impacted by the alleged release, and the approximate location to the alleged release of any known tile intakes or tile lines which could be a direct conveyance to a surface water or groundwater.

(11) A description of any containment or remedial measures taken to minimize the impact of the release.

(12) Any information that may assist the department in evaluating the release.

d. *Reporting of subsequent findings.* All subsequent findings and laboratory results should be reported and submitted in writing to the department as soon as they become available.

e. *Waiver of notification requirement.* A waiver from the notification requirement of paragraph *"a"* of this subrule may be granted by the department for a release to a specific drainage tile line or intake if sufficient information is provided to demonstrate that the drainage tile line or intake will not result in a discharge to a water of the state.

567—65.3(455B) Requirements and recommended practices for land application of manure.

65.3(1) *Application rate based on crop nitrogen use.* A confinement feeding operation that is required to submit a manure management plan to the department under rule 65.16(455B) shall not apply manure in excess of the nitrogen use levels necessary to obtain optimum crop yields. Calculations to determine the maximum manure application rate allowed under this subrule shall be performed pursuant to rule 65.17(455B).

65.3(2) *General requirements for application rates and practices.*

a. For confinement feeding operations required to submit a manure management plan to the department under rule 65.16(455B), application rates and practices shall be determined pursuant to rule 65.17(455B).

b. For manure originating from an anaerobic lagoon or aerobic structure, application rates and practices shall be used to minimize groundwater or surface water pollution resulting from application, including pollution caused by runoff or other manure flow resulting from precipitation events. In determining appropriate application rates and practices, the person land-applying the manure shall consider the site conditions at the time of application including anticipated precipitation and other weather factors, field residue and tillage, site topography, the existence and depth of known or suspected tile lines in the application field, and crop and soil conditions, including a good-faith estimate of the available water holding capacity given precipitation events, the predominant soil types in the application field and planned manure application rate.

c. Spray irrigation equipment shall be operated in a manner and with an application rate and timing that does not cause runoff of the manure onto the property adjoining the property where the spray irrigation equipment is being operated.

d. For manure from an earthen waste slurry storage basin, earthen manure storage basin, or formed manure storage structure, restricted spray irrigation equipment shall not be used unless the manure has been diluted with surface water or groundwater to a ratio of at least 15 parts water to 1 part manure.

Emergency use of spray irrigation equipment without dilution shall be allowed to minimize the impact of a release as approved by the department.

65.3(3) *Separation distance requirements for land application of manure.* Land application of manure shall be separated from objects and locations as specified in this subrule.

a. For liquid manure from a confinement feeding operation, the required separation distance from a residence not owned by the titleholder of the land, a business, a church, a school, or a public use area is 750 feet, as specified in Iowa Code section 455B.162. The separation distance for application of manure by spray irrigation equipment shall be measured from the actual wetted perimeter and the closest point of the residence, business, church, school, or public use area.

b. The separation distance specified in paragraph 65.3(3)*"a"* shall not apply if any of the following apply:

(1) The liquid manure is injected into the soil or incorporated within the soil not later than 24 hours after the original application.

(2) The titleholder of the land benefitting from the separation distance requirement executes a written waiver with the titleholder of the land where the manure is applied.

(3) The liquid manure originates from a small animal feeding operation.

(4) The liquid manure is applied by low-pressure spray irrigation equipment pursuant to paragraph 65.3(3)*"d."*

c. Separation distance for spray irrigation from property boundary line. Spray irrigation equipment shall be set up to provide for a minimum distance of 100 feet between the wetted perimeter as specified in the spray irrigation equipment manufacturer's specifications and the boundary line of the property where the equipment is being operated. The actual wetted perimeter, as determined by wind speed and direction and other operating conditions, shall not exceed the boundary line of the property where the equipment is being operated. For property which includes a road right-of-way, railroad right-of-way or an access easement, the property boundary line shall be the boundary line of the right-of-way or easement.

d. Distance from structures for low-pressure irrigation systems. Low-pressure irrigation systems shall have a minimum separation distance of 250 feet between the actual wetted perimeter and the closest point of a residence, a business, church, school or public use area.

e. Variances. Variances to paragraph *"c"* of this subrule may be granted by the department if sufficient and proposed alternative information is provided to substantiate the need and propriety for such action. Variances may be granted on a temporary or permanent basis. The request for a variance shall be in writing and include information regarding:

(1) The type of manure storage structure from which the manure will be applied by spray irrigation equipment.

(2) The spray irrigation equipment to be used in the application of manure.

(3) Other information as the department may request.

f. Agricultural drainage wells. Manure shall not be applied by spray irrigation equipment on land located within an agricultural drainage well area.

g. Designated areas. A person shall not apply manure on land within 200 feet from a designated area, or in the case of a high quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application.

65.3(4) *Recommended practices.* Except as required by rule in this chapter, the following practices are recommended:

a. *Nitrogen application rates.* To minimize the potential for leaching to groundwater or runoff to surface waters, nitrogen application from all sources, including manure, legumes, and commercial

fertilizers, should not be in excess of the nitrogen use levels necessary to obtain optimum crop yields for the crop being grown.

b. *Phosphorous application rates.* To minimize phosphorous movement to surface waters, manure should be applied at rates equivalent to crop uptake when soil tests indicate adequate phosphorous levels. Phosphorous application more than crop removal can be used to obtain maximum crop production when soil tests indicate very low or low phosphorous levels.

c. *Manure application on frozen or snow-covered cropland.* Manure application on frozen or snow-covered cropland should be avoided where possible. If manure is spread on frozen or snow-covered cropland, application should be limited to areas on which:

(1) Land slopes are 4 percent or less, or

(2) Adequate erosion control practices exist. Adequate erosion control practices may include such practices as terraces, conservation tillage, cover crops, contour farming or similar practices.

d. *Manure application on cropland subject to flooding.* Manure application on cropland subject to flooding more than once every ten years should be injected during application or incorporated into the soil after application. Manure should not be spread on such areas during frozen or snow-covered conditions.

e. *Manure application on land adjacent to water bodies.* Unless adequate erosion controls exist on the land and manure is injected or incorporated into the soil, manure application should not be done on land areas located within 200 feet of and draining into a stream or surface intake for a tile line or other buried conduit. No manure should be spread on waterways except for the purpose of establishing seedings.

f. *Manure application on steeply sloping cropland.* Manure application on tilled cropland with greater than 10 percent slopes should be limited to areas where adequate soil erosion control practices exist. Injection or soil incorporation of manure is recommended where consistent with the established soil erosion control practices.

567—65.4(455B) Operation permit required. A confinement feeding operation shall apply for and obtain an operation permit if the department notifies the operation in writing that, in accordance with the departmental evaluation provisions of 65.5(2)*"a,"* application for an operation permit is required.

567—65.5(455B) Departmental evaluation.

65.5(1) The department may evaluate any animal feeding operation to determine if any of the following conditions exist:

a. Manure from the operation is being discharged into a water of the state and the operation is not providing the applicable minimum level of manure control as specified in subrule 65.2(1), 65.2(2), or 65.2(3);

b. Manure from the operation is causing or may reasonably be expected to cause pollution of a water of the state; or

c. Manure from the operation is causing or may reasonably be expected to cause a violation of state water quality standards.

65.5(2) If departmental evaluation determines that any of the conditions listed in subrule 65.5(1) exist, the operation shall:

a. Apply for an operation permit if the operation receives a written notification from the department that it is required to apply for an operation permit. However, no operation with an animal capacity less than that specified in the following subparagraphs shall be required to apply for a permit unless manure from the operation is discharged into a water of the state through a man-made manure drainage system or is discharged into a water of the state which traverses the operation:

(1) 300 beef cattle.

(2) 200 dairy cattle.

(3) 750 butcher and breeding swine (over 55 lbs.).

(4) 3000 sheep or lambs.

(5) 16,500 turkeys.

(6) 30,000 broiler or layer chickens.

(7) 150 horses.

(8) 300 animal units.

b. Institute necessary remedial actions to eliminate the conditions if the operation receives a written notification from the department of the need to correct the conditions. This paragraph shall apply to all permitted and unpermitted animal feeding operations, regardless of animal capacity.

[1]**65.5(3)** The department may evaluate any proposed confinement feeding operation or proposed expansion of a confinement feeding operation that requires a construction permit or manure management plan with respect to its potential adverse impacts on natural resources or the environment.

a. In conducting the evaluation, the department shall consider the following factors:

(1) The likelihood manure will be applied to frozen or snow-covered cropland.

(2) The proximity of the structures or manure application areas to sensitive areas, including but not limited to publicly owned land, designated areas, trout streams and karst terrain.

(3) Topography, slope, vegetation, potential means or routes of conveyance of manure spilled or land-applied. This factor includes but is not limited to whether the manure application areas involve cropland with predominant slopes greater than 9 percent without a conservation plan approved by the local soil and water conservation district or its equivalent and whether manure for land application is hauled or otherwise transported more than five miles.

(4) Whether the operation or manure application area is or will be located in a two-year capture zone for a public water supply.

b. In addition to the requirements in rules 65.9(455B), 65.10(455B), 65.11(455B), 65.15(455B) and 65.17(459), the department may deny a construction permit, disapprove a manure management plan or prohibit construction of the proposed operation at the proposed location if the director determines from the evaluation conducted pursuant to this subrule that the operation would reasonably be expected to result in any of the following impacts:

(1) Manure from the operation will cause pollution of a water of the state.

(2) Manure from the operation will cause a violation of state water quality standards.

(3) An adverse effect on natural resources or the environment will occur in a specific area due to the current concentration of animal feeding operations or the associated manure application areas.

c. The department also may establish permit conditions or require amendments to the manure management plan in addition to the minimum requirements established for such operations, on the location of structures or manure application, or other operational conditions necessary to avoid or minimize the adverse impacts.

d. A construction permit denial or condition, a manure management plan disapproval or required amendment, or a prohibition of construction pursuant to this subrule may be appealed according to the contested case procedures set forth in 561—Chapter 7.

[1] Objection to 65.5(3) filed by the Administrative Rules Review Committee October 10, 2006. See text of Objection at end of Chapter 65.

567—65.6(455B) Operation permits.

65.6(1) *Existing animal feeding operations holding an operation permit.* Animal feeding operations which hold a valid operation permit issued prior to July 22, 1987, are not required to reapply for an operation permit. However, the operations are required to apply for permit renewal in accordance with subrule 65.6(10).

65.6(2) *Existing animal feeding operations not holding an operation permit.* Animal feeding operations in existence on July 22, 1987, which are covered by the operation-permit provisions of subrule 65.4(1) or 65.4(2) but have not obtained a permit, shall apply for an operation permit prior to January 22, 1988. Once application has been made, the animal feeding operation is authorized to continue to operate without an operation permit until the application has either been approved or disapproved by the department.

65.6(3) *Expansion of existing animal feeding operations.* A person intending to expand an existing animal feeding operation which, upon completion of the expansion, will be covered by the operation-permit provisions of subrule 65.4(1) or 65.4(2) shall apply for an operation permit at least 180 days prior to the date operation of the expanded facility is scheduled. Operation of the expanded portion of the facility shall not begin until an operation permit has been obtained.

65.6(4) *New animal feeding operations.* A person intending to begin a new animal feeding operation which, upon completion, will be covered by the operation-permit provisions of subrule 65.4(1) or 65.4(2) shall apply for an operation permit at least 180 days prior to the date operation of the new animal feeding facility is scheduled. Operation of the new facility shall not begin until an operation permit has been obtained.

65.6(5) *Permits required as a result of departmental evaluation.* An animal feeding operation which is required to apply for an operation permit as a result of departmental evaluation (in accordance with the provisions of 65.5(2)*"a"*) shall apply for an operation permit within 90 days of receiving written notification of the need to obtain a permit. Once application has been made, the animal feeding operation is authorized to continue to operate without a permit until the application has either been approved or disapproved by the department.

65.6(6) *Voluntary operation permit applications.* Applications for operation permits received from animal feeding operations not meeting the operation-permit requirements of subrules 65.4(1) to 65.4(3) will be acknowledged by the department and returned to the applicant. Operation permits will not be issued for facilities not meeting the permit requirements of subrules 65.4(1) to 65.4(3).

65.6(7) *Application forms.* An application for an operation permit shall be made on a form provided by the department. The application shall be complete and shall contain detailed information as deemed necessary by the department. The application shall be signed by the person who is legally responsible for the animal feeding operation and its associated manure control system.

65.6(8) *Compliance schedule.* When necessary to comply with a present standard or a standard which must be met at a future date, an operation permit shall include a schedule for modification of the permitted facility to meet the standard. The schedule shall not relieve the permittee of the duty to obtain a construction permit pursuant to subrule 65.7(1).

65.6(9) *Permit conditions.* Operation permits shall contain conditions considered necessary by the department to ensure compliance with all applicable rules of the department, to ensure that the manure-control system is properly operated and maintained, to protect the public health and beneficial uses of state waters, and to prevent water pollution from manure storage or application operations. Self-monitoring and reporting requirements which may be imposed on animal feeding operations are specified in 567—subrule 63.5(1).

65.6(10) *Permit renewal.* An operation permit may be issued for any period of time not to exceed five years. An application for renewal of an operation permit must be submitted to the department at least 180 days prior to the date the permit expires. Each permit to be renewed shall be subject to the provisions of those rules of the department which apply to the facility at the time of renewal.

A permitted animal feeding operation which does not meet the operation-permit requirements of subrules 65.4(1) to 65.4(3) will be exempted from the need to retain that permit at the time of permit renewal, and the existing operation permit will not be renewed.

65.6(11) *Permit modification, suspension or revocation.* The department may modify, suspend, refuse to renew or revoke in whole or part any operation permit for cause. Cause for modification, suspension or revocation of a permit may include the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

d. Failure to submit the records and information that the department requires in order to ensure compliance with the operation and discharge conditions of the permit.

e. A determination by the department that the continued operation of a confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

65.6(12) *Concentrated animal feeding operation registration program.* Rescinded IAB 4/12/06, effective 5/17/06.

567—65.7(455B) Construction permits.

65.7(1) *Animal feeding operations required to obtain a construction permit.*

a. An animal feeding operation covered by the operation permit provisions of subrules 65.4(1) to 65.4(3) shall obtain a construction permit prior to constructing, installing, or modifying a manure control system for that operation or reopening the operation if it was discontinued for 24 months or more.

b. Except as provided in subrule 65.7(2), a confinement feeding operation shall obtain a construction permit prior to any of the following:

(1) Constructing or modifying any unformed manure storage structure, or constructing or modifying a confinement building that uses an unformed manure storage structure.

(2) Constructing, installing or modifying a confinement building or a formed manure storage structure at a confinement feeding operation if, after construction, installation or expansion, the animal unit capacity of the operation is 1,000 animal units or more. This subparagraph also applies to confinement feeding operations that store manure exclusively in a dry form.

(3) Initiating a change that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in any unformed manure storage structure, even if no construction or physical alteration is necessary. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(4) Initiating a change, even if no construction or physical alteration is necessary, that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in a formed manure storage structure if, after the change, the animal unit capacity of the operation is 1,000 animal units or more. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(5) Constructing or modifying any egg washwater storage structure or a confinement building at a confinement feeding operation that includes an egg washwater storage structure.

(6) Initiating a change that would result in an increase in the volume of egg washwater or a modification in the manner in which egg washwater is stored, even if no construction or physical alteration is necessary. Increases in the volume of egg washwater due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(7) Repopulating a confinement feeding operation if it was closed for 24 months or more and if any of the following apply:

1. The confinement feeding operation uses an unformed manure storage structure or egg washwater storage structure;

2. The confinement feeding operation includes only confinement buildings and formed manure storage structures and has an animal unit capacity of 1,000 animal units or more.

(8) Installing a permanent manure transfer piping system, unless the department determines that a construction permit is not required.

Repairs to a confinement building or additions such as fans, slats, gates, roofs, or covers do not require a construction permit. In some instances, the department may determine that a construction permit is not required to increase the volume of manure or egg washwater or a modification in the manner in which manure or egg washwater is stored if the increase or modification is deemed insignificant. Plans for repairs or modifications to a manure storage structure shall be submitted to the department to determine if a permit is required.

65.7(2) *Animal feeding operations not required to obtain a construction permit.*

a. A construction permit shall not be required for an animal feeding operation structure used in conjunction with a small animal feeding operation.

b. A construction permit shall not be required for an animal feeding operation structure related to research activities and experiments performed under the authority and regulations of a research college.

65.7(3) *Operations that shall not be issued construction permits.*

a. The department shall not issue a construction permit to a person if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending.

b. The department shall not issue a construction permit to a person for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code section 455B.191.

c. The department shall not issue a construction permit to expand or modify a confinement feeding operation for one year after completion of the last construction or modification at the operation, if a permit was not required for the last construction or modification. The department, upon good cause demonstrated by the applicant, shall grant a waiver to this rule.

d. The department shall not issue a construction permit for a confinement feeding operation structure that is proposed to be located on the one hundred year flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this subrule.

65.7(4) *Plan review criteria.* Review of plans and specifications shall be conducted to determine the potential of the proposed manure control system to achieve the level of manure control being required of the animal feeding operation. In conducting this review, applicable criteria contained in federal law, state law, these rules, natural resource conservation service design standards and specifications unless inconsistent with federal or state law or these rules, and department of commerce precipitation data shall be used. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

65.7(5) *Expiration of construction permits.* A construction permit issued prior to June 15, 2005, shall expire if construction, as defined in rule 65.8(455B), is not begun within one year of the date of issuance and shall expire on June 15, 2012, if construction is not completed by June 14, 2012. A construction permit issued on or after June 15, 2005, shall expire if construction, as defined in rule 65.8(455B), is not begun within one year and completed within four years of the date of issuance. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director, unless a person who has an interest in the proposed operation is the subject of a pending enforcement action or a person who has a controlling interest in the proposed operation has been classified as a habitual violator.

65.7(6) *Revocation of construction permits.* The department may revoke a construction permit or refuse to renew a permit expiring according to subrule 65.7(5) if it determines that the operation of the confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

65.7(7) *Permit prior to construction.* An applicant for a construction permit shall not begin construction at the location of a site planned for the construction of an animal feeding operation structure, including an aerobic structure, until the person has been granted a permit for the construction of the structure by the department.

567—65.8(455B) Construction. For purposes of these rules:

65.8(1) Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

a. Excavation for a proposed animal feeding operation structure, or excavation for footings for a proposed animal feeding operation structure.

b. Installation of forms for concrete for an animal feeding operation structure.

c. Installation of piping for movement of manure within or between animal feeding operation structures.

65.8(2) Construction does not begin upon occurrence of any of the following:

a. Removal of trees, brush, or other vegetative growth.

b. Construction of driveways or roads.

c. General earth moving for leveling or compacting at the site.

d. Installation of temporary utility services.

65.8(3) Prohibition on construction.

a. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation, if the person is either of the following:

(1) A party to a pending action for a violation of this chapter concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general.

(2) A habitual violator.

b. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation for five years after the date of the last violation committed by a person or a confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code section 455B.191.

c. Paragraphs *"a"* and *"b"* shall not prohibit a person from completing the construction or expansion of an animal feeding operation structure, if either of the following applies:

(1) The person has an unexpired permit for the construction or expansion of the animal feeding operation structure.

(2) The person is not required to obtain a permit for the construction or expansion of the animal feeding operation structure.

d. A confinement feeding operation structure shall not be constructed on the one hundred year flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this paragraph.

e. A person shall not construct a confinement feeding operation structure on land that contains alluvial soils, according to the Soil Survey published by the Natural Resources Conservation Service of the United States Department of Agriculture, unless the person has received a declaratory order or a determination from the department of natural resources that the proposed location of the structure is not on the one hundred year flood plain. The declaratory order or determination may be obtained as follows:

(1) If the person does not apply for a construction permit as provided in Iowa Code section 459.303 and rule 567—65.9(455B), the person must petition the department for a declaratory order pursuant to Iowa Code section 17A.9 and 561—Chapter 6 to determine whether the location of the proposed confinement feeding operation structure is on the one hundred year flood plain. The person is strongly encouraged to contact the department prior to submitting the petition to determine the nature and extent of information required for the petition to be considered complete. To be considered complete, the petition must include all information pursuant to 567—Chapters 70 to 76 necessary to determine if the confinement feeding operation structure is proposed to be located on a one hundred year flood plain. This information may include land surveys to determine elevations of the land within the footprint of the planned operation as well as flood plain and channel geometry. The department shall issue a declaratory order in response to a complete petition, notwithstanding any other provision provided in Iowa Code section 17A.9 to the contrary, within 30 days from the date that the complete petition is filed with the department. The declaratory order shall state whether or not the proposed location is on the one hundred year flood plain.

(2) If the person does apply for a construction permit as provided in Iowa Code section 459.303, the person must identify in the application whether or not the land contains alluvial soils. The department shall determine if the confinement feeding operation structure is proposed to be located on the one hundred year flood plain. If the proposed location of the confinement feeding operation structure is on the one hundred year flood plain, the department shall disapprove the construction permit. In the event that the proposed location of the confinement feeding operation structure is not on the one hundred year flood plain, the department may issue a construction permit as provided in Iowa Code section 459.303 and rule 567—65.9(455B) if all other applicable criteria are satisfied.

567—65.9(455B) Construction permit application.

65.9(1) *Confinement feeding operations.* Application for a construction permit for a confinement feeding operation shall be made on a form provided by the department. The application shall include all of the information required. At the time the department receives a complete application, the department shall make a determination regarding the approval or denial of the permit within 60 days. However, the 60-day requirement shall not apply to an application if the applicant is not required to obtain a permit. A construction permit application for a confinement feeding operation shall include at least the following:

a. The owner and the name of the confinement feeding operation, including mailing address and telephone number.

b. The contact person for the confinement feeding operation, including mailing address and telephone number.

c. The location of the confinement feeding operation.

d. Whether the application is for the expansion of an existing or the construction of a proposed confinement feeding operation.

e. The animal weight capacity by animal species of the current confinement feeding operation to be expanded, if applicable, and of the proposed confinement feeding operation.

f. For a manure storage structure in which manure is stored in a liquid or semiliquid form or for an egg washwater storage structure, an engineering report, construction plans and specifications, prepared by a licensed professional engineer or by Natural Resources Conservation Service personnel, that detail the proposed structures.

g. A report on soil corings in the area of the aerobic structure, anaerobic lagoon, egg washwater storage structure, or manure storage basin, as described in subrule 65.17(6), if an earthen lagoon, structure or basin is being constructed.

h. Payment to the department of the indemnity fund fee as required in Iowa Code section 455J.3.

i. If the confinement feeding operation contains three or more animal feeding operation structures, a licensed professional engineer shall certify that either the construction of the structure will not impede the drainage through established drainage tile lines which cross property boundary lines or that if the drainage is impeded during construction, the drainage tile will be rerouted to reestablish the drainage prior to operation of the structure.

j. Information (e.g., maps, drawings, aerial photos) that clearly shows the proposed location of the animal feeding operation structures, any locations or objects from which a separation distance is required by Iowa Code sections 455B.162 and 455B.204 and that the structures will meet all applicable separation distances.

k. The names of all parties with an interest or controlling interest in the confinement feeding operation who also have an interest or controlling interest in at least one other confinement feeding operation in Iowa, and the names and locations of such other operations.

l. Documentation that a copy of the permit application and manure management plan has been provided to the county board of supervisors or county auditor in the county where the operation or structure subject to the permit is to be located, and documentation of the date received by the county.

m. A fee of $500, consisting of a construction permit application fee of $250 and the manure management plan filing fee of $250 as required in 65.16(6).

n. Rescinded IAB 2/19/03, effective 3/1/03.

o. Information necessary for the department to determine: (1) if the confinement feeding operation is proposed to be located on a one hundred year flood plain; (2) if a flood plain development permit for the operation is required; and (3) if a flood plain development permit may be issued if one is required, pursuant to 567—Chapters 70 to 76. This information may include land surveys to determine elevations of the land within the footprint of the planned operation as well as flood plain and channel geometry.

p. A copy of any master matrix evaluation provided to the county.

65.9(2) *Open feedlots.* Rescinded IAB 9/14/05, effective 9/14/05.

567—65.10(455B) Construction permit application review process, site inspections and complaint investigations.

65.10(1) *Delivery of application to county.* The applicant for a construction permit for a confinement feeding operation or related animal feeding operation structure shall deliver in person or by certified mail a copy of the permit application and manure management plan to the county board of supervisors of the county where the confinement feeding operation or related animal feeding operation structure is proposed to be constructed. Receipt of the application and manure management plan by the county auditor or other county official or employee designated by the county board of supervisors is deemed receipt of the application and manure management plan by the county board of supervisors. Documentation of the delivery or mailing of the permit application and manure management plan shall be forwarded to the department.

65.10(2) *Public notice and county comment.*

a. *Public notice.* The county board of supervisors shall publish a notice that the board has received the construction permit application in a newspaper having general circulation in the county. The county board shall publish the notice as soon as possible but no later than 14 days after receiving the permit application. The notice shall include all of the following:

(1) The name of the person applying to receive the construction permit;

(2) The name of the township where the confinement feeding operation structure is to be constructed;

(3) Each type of confinement feeding operation structure proposed to be constructed;

(4) The animal unit capacity of the confinement feeding operation if the construction permit were to be approved;

(5) The time when and the place where the application may be examined as provided in Iowa Code section 22.2;

(6) Procedures for providing public comments to the board as provided by the board.

The county shall submit to the department, within 30 days of receipt of the construction permit application, proof of publication to verify that the county provided public notice as required in this paragraph.

b. *County comment.* Regardless of whether the county board of supervisors has adopted a construction evaluation resolution, the board may submit to the department comments by the board and the public regarding compliance of the construction permit application and manure management plan with the requirements in this chapter and Iowa Code chapter 455B for obtaining a construction permit. Comments may include, but are not limited to, the following:

(1) The existence of an object or location not included in the construction permit application which benefits from a separation distance requirement as provided in Iowa Code section 455B.162 or 455B.204.

(2) The suitability of soils and the hydrology of the site where construction or expansion of a confinement feeding operation or related animal feeding operation structure is proposed.

(3) The availability of land for the application of manure originating from the confinement feeding operation.

(4) Whether the construction or expansion of a proposed animal feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.

65.10(3) *Master matrix.* A county board of supervisors may adopt a construction evaluation resolution relating to the construction of a confinement feeding operation structure. The board must submit such resolution to the director of the department for filing. Adoption and filing of a construction evaluation resolution authorizes a county board of supervisors to conduct an evaluation of a construction permit application using the master matrix as follows:

a. *Enrollment periods.*

(1) For evaluation of construction permit applications filed during the period March 1, 2003, through January 31, 2004, the county board of supervisors must file an adopted construction evaluation resolution with the department between February 1, 2003, and February 28, 2003.

(2) For evaluation of construction permit applications filed during the period February 1, 2004, through January 31, 2005, the county board of supervisors must file an adopted construction evaluation resolution with the department between January 1, 2004, and January 31, 2004.

(3) For evaluation of construction permit applications filed during subsequent annual periods, each beginning on February 1 and ending on January 31 one calendar year later, the county board of supervisors must file an adopted construction evaluation resolution with the department between January 1 and January 31 immediately prior to the commencement of the applicable annual period.

(4) Filed construction evaluation resolutions shall remain in effect until the applicable enrollment period expires or until such time as the county board of supervisors files with the department a resolution rescinding the construction evaluation resolution, whichever is earlier.

(5) Filing of an adopted construction evaluation resolution requires a county board of supervisors to conduct an evaluation of a construction permit application using the master matrix. However, if the board fails to submit an adopted recommendation to the department, the department shall disregard any adopted recommendation from that board until the board timely submits a new construction evaluation resolution.

b. Use of the master matrix. If a county board of supervisors has adopted and filed with the department a construction evaluation resolution, as provided in paragraph 65.10(3)*"a,"* the board shall evaluate all construction permit applications filed during the applicable period using the master matrix as follows:

(1) In completing the master matrix, the board shall not score criteria on a selective basis. The board must score all criteria which are part of the master matrix according to the terms and conditions relating to construction as specified in the application or commitments for manure management that are to be incorporated into a manure management plan as provided in Iowa Code section 455B.203.

(2) The board shall include with the adopted recommendation a copy of the master matrix analysis, calculations, and scoring for the application. The board's adopted recommendation submitted to the department may be based on the master matrix or on comments received by the board. The adopted recommendation shall include the specific reasons and any supporting documentation for the decision to recommend approval or disapproval of the application.

(3) The board shall not use the master matrix to evaluate a construction permit application for the construction or expansion of a confinement feeding operation structure if the construction is for expansion of a confinement feeding operation structure constructed prior to April 1, 2002, and, after the expansion of the confinement feeding operation, its animal unit capacity is 1,666 animal units or less. The board may still submit comments regarding the application.

65.10(4) *Inspection of proposed construction site.* The department may conduct an inspection of the site on which construction of the confinement feeding operation is proposed after providing a minimum of 24 hours' notice to the construction permit applicant or sooner with the consent of the applicant. If the county in which the proposed facility is located has adopted and submitted a construction evaluation resolution pursuant to subrule 65.10(3) and has not failed subsequently to submit an adopted recommendation, the county may designate a county employee to accompany a department official during the site inspection. In such cases, the department shall notify the county board of supervisors or county designee at least three days prior to conducting an inspection of the site where construction of the confinement feeding operation is proposed. The county designee shall have the same right to access to the site's real estate on which construction of the confinement feeding operation is proposed as the departmental official conducting the inspection during the period that the county designee accompanies the departmental official. The departmental official and the county designee shall comply with standard biosecurity requirements customarily required by the owner of the confinement feeding operation that are necessary in order to control the spread of disease among an animal population.

65.10(5) *Determination by the department.* The department must receive the county board of supervisors' comments or evaluation for approval or disapproval of an application for a construction permit not later than 30 days following the applicant's delivery of the application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must render a determination or a preliminary determination to approve or

disapprove an application for a construction permit within 60 days following the applicant's delivery of an application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may terminate an application if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed.

The department will approve or disapprove an application as follows:

a. If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department will disapprove the application if it does not meet such requirements.

b. If the board of supervisors for the county in which the confinement feeding operation is proposed to be constructed has filed a county construction evaluation resolution and submits an adopted recommendation to approve the construction permit application, which may be based on a satisfactory rating produced by the master matrix, to the department, the department shall preliminarily approve an application for a construction permit if the department determines that the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of the adopted recommendation of the board of supervisors. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.

c. If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter and Iowa Code chapter 455B, the department shall conduct an independent evaluation of the application using the master matrix. The department shall preliminarily approve the application if it achieves a satisfactory rating according to the department's evaluation. The department shall preliminarily disapprove the application if it produces an unsatisfactory rating regardless of whether the application satisfies the requirements of this chapter and Iowa Code chapter 455B. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.

65.10(6) *Departmental notification of permit application decision.* Within three days following the department's determination or preliminary determination to approve or disapprove the application for a construction permit, the department shall deliver a notice of the decision to the applicant.

a. If the county board of supervisors has submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department shall notify the board of the department's preliminary decision to approve or disapprove the application at the same time. For a preliminary decision to approve an application, the notice shall consist of a copy of the draft construction permit. For a preliminary decision to disapprove an application, the notice shall consist of a copy of the department's letter of preliminary denial. The preliminary decision to approve or disapprove an

application becomes final without further proceedings if neither the county board of supervisors nor the applicant demands a hearing before the commission or appeals pursuant to 65.10(7) and 65.10(8).

b. If the county board of supervisors has not submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department notice shall include the construction permit or letter of denial. The applicant may appeal the permit or denial as provided in 65.10(8).

65.10(7) *County demand for hearing.* A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's preliminary decision to approve or disapprove an application by filing a written demand for a hearing before the commission. Due to the need for expedited scheduling, the county board of supervisors shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the board intends to file a demand for hearing. The demand for hearing shall be mailed to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, and must be postmarked within 14 days following receipt of the department's notice of preliminary decision. The demand shall include a statement providing all reasons why the application should be approved or disapproved according to legal requirements in this chapter and Iowa Code chapter 455B; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for consideration by the commission; and a statement indicating whether oral argument before the commission is desired.

65.10(8) *Applicant demand for hearing; appeal.* The applicant may contest the department's decision or preliminary decision to approve or disapprove an application by filing a written demand for a hearing. The applicant may elect to have the hearing conducted as a contested case before an administrative law judge pursuant to 561—Chapter 7, or before the commission pursuant to subrule 65.10(9). The demand for hearing shall indicate which procedure the applicant elects.

a. Applicant demand for hearing before the commission. Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing; however, in cases in which the applicant would not demand a hearing unless the county demanded one, the applicant will be allowed an additional three working days to file a demand. It is the responsibility of the applicant to communicate with the department to determine if a county demand has been filed. The demand for hearing shall be mailed to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, and must be postmarked within 14 days following receipt of the department's notice of preliminary decision, or such longer time as authorized in this paragraph. The demand shall include a statement providing all reasons why the application should be approved or disapproved without specified conditions according to legal requirements in this chapter and Iowa Code chapter 455B; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for consideration by the commission; and a statement indicating whether oral argument before the commission is desired. If both the applicant and a county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

b. Applicant contested case appeal. The applicant may appeal a permit or letter of denial according to the contested case procedures set forth in 561—Chapter 7; however, if the county has demanded a hearing pursuant to subrule 65.10(7), a demand for hearing must be filed within the time frames set forth in paragraph *"a."* If both the applicant and a county board of supervisors are contesting the department's preliminary decision, the applicant may request that the hearings be consolidated and conducted as a contested case.

65.10(9) *Decision by the commission.* The director shall schedule a hearing on a demand pursuant to 65.10(7) or 65.10(8)*"a"* for consideration at the next regular meeting of the commission and notify the county board of supervisors and the applicant of the time and place. However, if the next regular meeting of the commission will take place more than 35 days after receipt of the demand for hearing, the director

shall schedule a special in-person meeting or an electronic meeting of the commission pursuant to Iowa Code section 21.8. The director shall provide the applicant with copies of all documents submitted by the county board of supervisors and a copy of the department's file on the permit application within three days after receipt of the county board of supervisors' comments. The applicant may submit responses or other documents for consideration by the commission postmarked or hand-delivered at least 14 days prior to the date of consideration by the commission. Consideration by the commission is not a contested case. Oral participation before the commission will be limited to time periods specified by the commission and, unless otherwise determined by the commission, to argument by representatives from the county board of supervisors, the applicant and the department. The decision by the commission shall be stated on the record and shall be final agency action pursuant to Iowa Code chapter 17A. If the commission reverses or modifies the department's decision, the department shall issue the appropriate permit or letter of denial to the applicant. The letter of decision shall contain the reasons for the action regarding the permit.

65.10(10) *Complaint investigations.* Complaints of violations of Iowa Code chapter 455B and this rule, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

a. If after evaluating a complaint to determine whether the allegation may constitute a violation, without investigating whether the facts supporting the allegation are true or untrue, the county board of supervisors shall forward its finding to the department director.

b. A complaint is legally sufficient if it contains adequate information to investigate the complaint and if the allegation constitutes a violation, without investigating whether the facts supporting the allegation are true or untrue, of rules adopted by the department, Iowa Code chapter 455B or environmental standards in regulations subject to federal law and enforced by the department.

c. The department in its discretion shall determine the urgency of the investigation, and the time and resources required to complete the investigation, based upon the circumstances of the case, including the severity of the threat to the quality of surface water or groundwater.

d. The department shall notify the complainant and the alleged violator if an investigation is not conducted specifying the reason for the decision not to conduct an investigation.

e. The department will notify the county board of supervisors where the violation is alleged to have occurred before doing a site investigation unless the department determines that a clear, present and impending danger to the public health or environment requires immediate action.

f. The county board of supervisors may designate a county employee to accompany the department on the investigation of any site as a result of a complaint.

g. A county employee accompanying the department on a site investigation has the same right of access to the site as the department official conducting the investigation during the period that the county designee accompanies the department official. The county shall not have access to records required in subrule 65.17(12) or the current manure management plan maintained at the facility.

h. Upon completion of an investigation, the department shall notify the complainant of the results of the investigation, including any anticipated, pending or complete enforcement action arising from the investigation. The department shall deliver a copy of the notice to the animal feeding operation that is the subject of the complaint, any alleged violators if different from the animal feeding operation and the county board of supervisors of the county where the violation is alleged to have occurred.

i. When a person who is a department official, an agent of the department, or a person accompanying the department official or agent enters the premises of an animal feeding operation, both of the following shall apply:

(1) The person may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this chapter or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.

1. If the owner or occupant of any property refuses admittance to the operation, or if prior to such refusal the director demonstrates the necessity for a warrant, the director may make application under

oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

2. In the application the director shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is to be made. If an item of property is sought by the director, it shall be identified in the application.

3. If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe their existence, the court may issue such search warrant.

4. In making inspections and searches pursuant to the authority of this rule, the director must execute the warrant:

- Within ten days after its date.
- In a reasonable manner, and any property seized shall be treated in accordance with the provisions of Iowa Code chapters 808, 809, and 809A.
- Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

(2) The person shall comply with standard biosecurity requirements customarily required by the animal feeding operation which are necessary in order to control the spread of disease among an animal population.

567—65.11(455B) Confinement feeding operation separation distance requirements. All animal feeding operation structures shall be separated from locations and objects as specified in this rule regardless of whether a construction permit is required. Exceptions are allowed to the extent provided in 567—65.12(455B).

65.11(1) Separation from residences, businesses, churches, schools, public use areas, and thoroughfares shall be as specified in Iowa Code section 455B.162 and summarized in Table 6 at the end of this chapter. The residence, business, church, school, public use area or thoroughfare must exist at the time an applicant submits an application for a construction permit to the department or at the time a manure management plan is submitted if a construction permit is not required, or at the time construction of the animal feeding operation structure begins if a construction permit or manure management plan is not required.

65.11(2) Separation from surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, water sources and major water sources shall be as specified in Iowa Code section 459.310 and summarized in Table 6 at the end of this chapter. For the required separation distance to a major water source to apply, the major water source must be included in Table 1 at the end of this chapter at the time an applicant submits an application for a construction permit to the department or at the time a manure management plan is submitted if a construction permit is not required, or at the time construction of the animal feeding operation structure begins (as defined in 65.8(1)) if a construction permit or manure management plan is not required.

65.11(3) A confinement feeding operation structure shall not be constructed closer than 2,500 feet away from a "designated wetland" as defined and referenced in rule 567—65.1(455B). This requirement shall not apply to a confinement feeding operation structure if any of the following occur before the wetland is included in "Designated Wetlands in Iowa," effective August 23, 2006:

a. The confinement feeding operation structure already exists. This exemption also applies to additional confinement feeding operation structures constructed at the site of such an existing

confinement feeding operation structure after a wetland is included in "Designated Wetlands in Iowa," effective August 23, 2006.

b. Construction of a confinement feeding operation structure has begun as provided in subrule 65.8(1).

c. An application for a permit to construct a confinement feeding operation structure has been submitted to the department.

d. A manure management plan concerning a proposed confinement feeding operation structure for which a construction permit is not required has been submitted to the department.

65.11(4) For structures constructed after March 20, 1996, the separation to wells shall be as specified in Table 6 at the end of this chapter.

65.11(5) Unformed manure storage structures shall not be constructed or expanded in an agricultural drainage well area as specified in Iowa Code section 455I.5.

65.11(6) The distance between animal feeding operation structures and locations or objects from which separation is required shall be measured horizontally by standard survey methods between the closest point of the location or object (not a property line) and the closest point of the animal feeding operation structure.

a. Measurement to an anaerobic lagoon or earthen manure storage basin shall be to the point of maximum allowable level of manure pursuant to paragraph 65.2(3)*"b."*

b. Measurement to a public use area shall be to the facilities which attract the public to congregate and remain in the area for significant periods of time, not to the property line.

c. Measurement to a major water source or watercourse shall be to the top of the bank of the stream channel of a river or stream or the ordinary high water mark of a lake or reservoir.

d. Measurement to a thoroughfare shall be to the closest point of the right-of-way.

e. The separation distance for an animal feeding operation structure qualifying for the exemption to separation distances under 65.12(3)*"b"*(1) shall be measured from the closest point of the animal feeding operation structure which is constructed or expanded after December 31, 1998.

567—65.12(455B) Exemptions to confinement feeding operation separation distance requirements.

65.12(1) As specified in Iowa Code section 455B.165, the separation required from residences, businesses, churches, schools, public use areas and thoroughfares specified in Iowa Code section 455B.162 and summarized in Table 6 at the end of this chapter shall not apply to the following:

a. A confinement feeding operation structure which stores manure exclusively in a dry form.

b. A confinement feeding operation structure, other than an unformed manure storage structure, if the structure is part of a small animal feeding operation.

c. An animal feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located, under such terms and conditions that the parties negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The benefited land is the land upon which is located the residence, business, church, school or public use area from which separation is required. The filed waiver shall preclude enforcement by the department of the separation distance requirements of Iowa Code section 455B.162.

d. An animal feeding operation structure closer than the distances in Table 6 at the end of this chapter from a residence, business, church, school or public use area, if the residence, business, church, school or public use area was constructed or expanded after the date that the animal feeding operation commenced operating. An animal feeding operation commences operating when it is first occupied by animals. A change in ownership or expansion of the animal feeding operation does not change the date the operation commenced operating.

65.12(2) As specified in Iowa Code section 455B.165(4), the separation required from thoroughfares specified in Iowa Code section 455B.162(5) and summarized in Table 6 at the end of this chapter shall not apply if permanent vegetation stands between the animal feeding operation structure and that part of the right-of-way from which separation is required. The permanent vegetation must be at least seedlings

of plants with mature height of at least 20 feet and stand along the full length of the structure. The minimum vegetation requirement shall be a single row of conifers or columnar deciduous trees on 12- to 16-foot spacing. It is recommended that the advice of a professional forester or nursery stock expert, a department district forester or the Natural Resource Conservation Service be sought to identify tree species for a specific site.

65.12(3) As specified in Iowa Code section 455B.163, the separation required from residences, businesses, churches, schools, public use areas and thoroughfares specified in Iowa Code section 455B.162 and summarized in Table 6 at the end of this chapter shall not apply to confinement feeding operations constructed before the effective date of the separation distance in the following cases:

a. The confinement feeding operation continues to operate, but does not expand.

b. The animal feeding operation structure as constructed or expanded prior to January 1, 1999, complies with the distance requirements applying to that structure at the time of construction or expansion.

c. The confinement feeding operation expands on or after January 1, 1999, and any of the following apply:

(1) The animal feeding operation structure as constructed or expanded complies with the separation requirements. The separation required shall be based on the animal weight capacity of the entire confinement feeding operation, including existing and proposed structures.

(2) All of the following apply to the expansion:

1. No portion of the confinement feeding operation after expansion is closer than before expansion to a location or object for which separation is required.

2. The animal weight capacity of the confinement feeding operation which did not comply with a separation requirement that went into effect on May 31, 1995, after expansion is not more than the lesser double its capacity on May 31, 1995, or of 625,000 pounds for animals other than bovine, or 1,600,000 pounds for bovine.

3. The animal weight capacity of a confinement feeding_operation which complied with the separation requirements that went into effect on May 1, 1995, but did not comply with a separation requirement that went into effect on January 1, 1999, after expansion is not more than the lesser of double its capacity on January 1, 1999, or 625,000 pounds for animals other than bovine, or 1,600,000 pounds for bovine.

(3) The confinement feeding operation is expanded by replacing one or more unformed manure storage structures with one or more formed manure storage structures and all of the following apply:

1. The animal weight capacity of the portion of the operation that changes from unformed to formed manure storage does not increase.

2. Use of the replaced unformed manure storage structures is discontinued within one year after construction of the replacement formed manure storage structures.

3. The replacement formed manure storage structures do not provide more than 14 months of manure storage.

4. No portion of the operation after expansion is closer than before expansion to a location or object for which separation is required.

(NOTE: A construction permit is not required to construct the replacement formed manure storage structures if a permit would not be required for the construction if the unformed manure storage structures did not exist.)

65.12(4) As specified in Iowa Code section 455B.165(7), the separation required from a cemetery shall not apply to animal feeding operations structures on which construction or expansion began before January 1, 1999.

65.12(5) As specified in Iowa Code section 455B.204(3), the separation required from surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, major water sources and watercourses specified in Iowa Code section 455B.204 and summarized in Table 6 at the end of this chapter shall not apply to a farm pond, privately owned lake or a manure storage structure constructed with a secondary containment barrier according to subrule 65.15(17).

65.12(6) Variances to the well separation requirements may be granted by the director if the applicant provides an alternative that is substantially equivalent to the required separation or provides improved or greater protection for the well. Requests for a variance shall be made in writing at the time an application is submitted. The denial of a variance request may be appealed to the environmental protection commission.

567—65.13(455B) Separation distances from certain lakes, rivers and streams. Rescinded IAB 4/7/99, effective 5/12/99.

567—65.14(455B) Well separation distances for open feedlots. Rescinded IAB 4/12/06, effective 5/17/06.

567—65.15(455B) Manure storage structure design requirements. The requirements in this rule apply to all animal feeding operation structures unless specifically stated otherwise.

65.15(1) Drainage tile removal for new construction of a manure storage structure. Prior to constructing a manure storage structure, other than storage of manure in an exclusively dry form, the site for the animal feeding operation structure shall be investigated for drainage tile lines as provided in this subrule. All applicable records of known drainage tiles shall be examined for the existence of drainage tile lines.

a. Prior to excavation for the berm of an unformed manure storage structure, the owner of the unformed manure storage structure shall follow any one of the following procedures:

(1) An inspection trench of at least ten inches wide shall be dug around the structure to a depth of at least 6 feet from the original grade and at least 50 feet from the projected outside edge of the berm.

(2) A core trench shall be dug to a depth of at least 6 feet from grade at the projected center of the berm. After investigation for tile lines and any discovered tile lines are removed, an additional containment barrier shall be constructed underneath the center of the berm. The secondary containment shall meet the same percolation standards as the lagoon or basin with the lateral flow potential restricted to one-sixteenth of an inch per day.

b. The drainage tile lines discovered near an unformed manure storage structure shall be removed within 50 feet of the projected outside edge of the berm and within the projected site of the structure including under the berm. Drainage tile lines discovered upgrade from the structure shall be rerouted outside of 50 feet from the berm to continue the flow of drainage. Drainage tile lines installed at the time of construction to lower a groundwater table may remain where located. A device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the unformed manure storage structure is located. All other drainage tile lines discovered shall be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials, or reconnected to upgrade tile lines.

c. The applicant for a construction permit for a formed manure storage structure shall investigate for tile lines during excavation for the structure. Drainage tile lines discovered upgrade from the structure shall be rerouted around the formed manure storage structure to continue the flow of drainage. All other drainage tile lines discovered shall be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials or reconnected to upgrade tile lines. Drainage tile lines installed at the time of construction to lower a groundwater table may remain where located. A device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the formed manure storage structure is located.

d. An owner of a confinement feeding operation may utilize other proven methods approved by the department to discover drainage tile lines.

e. Variances to this subrule may be granted by the director if the owner of the confinement feeding operation provides an alternative that is substantially equivalent to the subrule or provides improved effectiveness or protection as required by the subrule. A request for a variance shall be made in writing

at the time the application is submitted or prior to investigating for drainage tile, whichever is earlier. The denial of a variance may be appealed to the commission.

f. A waiver to this subrule may be granted by the director if sufficient information is provided that the location does not have a history of drainage tile.

65.15(2) Drainage tile removal around an existing manure storage structure. The owner of an aerobic structure, anaerobic lagoon or earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, that is part of a confinement feeding operation with a construction permit granted before March 20, 1996, but after December 31, 1992, shall inspect by March 20, 1997, for drainage tile lines as provided in this subrule, and all applicable records of known drainage tiles shall be examined. The owner of an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, that is part of a confinement feeding operation with a construction permit granted before January 1, 1993, but after May 31, 1985, shall have an inspection conducted by July 1, 2000, for drainage tiles as provided in this subrule, and all applicable records of known drainage tiles shall be examined.

a. Inspection shall be by digging an inspection trench of at least ten inches wide around the structure to a depth of at least 6 feet from the original grade and at least 50 feet from the outside edge of the berm. The owner first shall inspect the area where trenching is to occur and manure management records to determine if there is any evidence of leakage and, if so, shall contact the department for further instructions as to proper inspection procedures. The owner of a confinement feeding operation shall either obtain permission from an adjoining property owner or trench up to the boundary line of the property if the distance of 50 feet would require the inspection trench to go onto the adjoining property.

b. The owner of the confinement feeding operation may utilize other proven methods approved by the department to discover drainage tile lines.

c. The drainage tile lines discovered near an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, shall be removed within 50 feet of the outside edge of the berm. Drainage tile lines discovered upgrade from the aerobic structure, anaerobic lagoon or earthen manure storage basin shall be rerouted outside of 50 feet from the berm to continue the flow of drainage. All other drainage tile lines discovered shall be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials, or reconnected to upgrade tile lines. Drainage tile lines that were installed at the time of construction to lower a groundwater table may either be avoided if the location is known or may remain at the location if discovered.

d. The owner of an aerobic structure, anaerobic lagoon, earthen manure storage structure or an earthen waste slurry storage basin with a tile drainage system to artificially lower the groundwater table shall have a device to allow monitoring of the water in the drainage tile lines that lower the groundwater table and to allow shutoff of the drainage tile lines if the drainage tile lines do not have a surface outlet accessible on the property where the aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin is located.

e. If the owner of the confinement feeding operation discovers drainage tile that projects underneath the berm, it shall follow one of the following options:

(1) Contact the department to obtain permission to remove the drainage tile under the berm. The manure in the structure must be lowered to a point below the depth of the tile prior to removing the drainage tile from under the berm. Prior to using the structure, a new percolation test must be submitted to the department and approval received from the department.

(2) Grout the length of the tile under the berm to the extent possible. The material used to grout shall include concrete, Portland cement concrete grout or similar materials.

f. Variances to this subrule may be granted by the director if the applicant provides an alternative that is substantially equivalent to the subrule or provides improved effectiveness or protection as required by the subrule. A request for a variance shall be made in writing. The denial of a variance may be appealed to the commission.

g. A waiver to this subrule may be granted by the director if sufficient information is provided that the location does not have a history of drainage tile.

h. A written record describing the actions taken to determine the existence of tile lines, the findings, and actions taken to comply with this subrule shall be prepared and maintained as part of the manure management plan records.

65.15(3) Guidelines for drainage tile removal around an existing manure storage structure.

a. It is recommended that a manure storage structure, other than the storage of manure in an exclusively dry form, that is part of a confinement feeding operation with a construction permit granted before May 31, 1985, be inspected for drainage tile lines as provided in this subrule, and all applicable records of known drainage tiles may be examined. For an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, inspection may be by digging an inspection trench of at least ten inches wide around the structure at a depth of at least 6 feet from the original grade and at least 50 feet from the projected outside edge of the berm. The owner first should inspect the area where trenching is to occur and manure management records to determine if there is any evidence of leakage and, if so, shall contact the department for further instructions as to proper inspection procedures.

b. The drainage tile lines discovered may be removed within 50 feet of the outside edge of the berm. Drainage tile lines discovered upgrade from the structure may be rerouted outside of 50 feet from the berm to continue the flow of drainage. Drainage tile lines that were installed at the time of construction to lower a groundwater table may either be avoided if the location is known or may remain at the location if discovered. All other drainage tile lines discovered may be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials or reconnected to upgrade tile lines. The owner of a confinement feeding operation should either obtain permission from an adjoining property owner or trench up to the boundary line of the property if the distance of 50 feet would require the inspection trench to go onto the adjoining property.

c. If the owner of a confinement feeding operation discovers drainage tile that projects underneath the berm, it may follow one of the following options:

(1) Contact the department to obtain permission to remove the drainage tile under the berm. The manure in the structure must be lowered to a point below the depth of the tile prior to removing the drainage tile from under the berm. Prior to using the structure, a new percolation test must be submitted to the department and approval received from the department.

(2) Grout the length of the tile under the berm to the extent possible. The material used to grout may include concrete, Portland cement concrete grout or similar materials.

d. The owner of a confinement feeding operation with a formed manure storage structure other than dry manure storage may inspect for tile lines. Drainage tile lines discovered upgrade from the structure may be rerouted around the formed manure storage structure to continue the flow of drainage. Drainage tile lines put in place during or after construction of the formed manure storage structure to relieve hydrologic pressure may remain where located. All other drainage tile lines discovered may be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials or reconnected to upgrade tile line.

65.15(4) Earthen waste slurry storage basins. An earthen waste slurry storage basin shall have accumulated manure removed at least twice each year unless there is sufficient basin capacity to allow removal of manure once each year and maintain freeboard as determined pursuant to 65.2(3)*"b."*

65.15(5) Earthen manure storage basins. An earthen manure storage basin shall have accumulated manure removed at least once each year. An earthen manure storage basin may have enough manure storage capacity to contain the manure from the confinement feeding operation for up to 14 months and maintain freeboard as determined pursuant to 65.2(3)*"b."*

65.15(6) Soil testing for earthen structures. Applicants for construction permits for earthen manure storage structures shall submit soils information according to this subrule for the site of the proposed structure. All subsurface soil classification shall be based on American Society for Testing and Materials Designations D 2487-92 or D 2488-90. Soil corings shall be taken to determine subsurface soil characteristics and groundwater elevation and direction of flow of the proposed site for an anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin. Soil corings shall be conducted by a qualified person normally engaged in soil testing activities. Data from the soil corings shall be submitted with a construction permit application and shall include a

description of the geologic units encountered, and a discussion of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin. All soil corings shall be taken by a method that identifies the continuous soil profile and does not result in the mixing of soil layers. The number and location of the soil corings will vary on a case-by-case basis as determined by the designing engineer and accepted by the department. The following are minimum requirements:

a. A minimum of four soil corings reflecting the continuous soil profile is required for each anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin. Corings which are intended to represent soil conditions at the corner of the structure must be located within 50 feet of the bottom edge of the structure and spaced so that one coring is as close as possible to each corner. Should there be no bottom corners, corings shall be equally spaced around the structure to obtain representative soil information for the site. An additional coring will be required if necessary to ensure that one coring is at the deepest point of excavation. For an anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin larger than 4 acres water surface area, one additional coring per acre is required for each acre above 4 acres surface area.

b. All corings shall be taken to a minimum depth of ten feet below the bottom elevation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin.

c. At least one coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin or into bedrock, whichever is shallower.

d. Upon abandonment of the soil core holes, all soil core holes including those developed as temporary water level monitoring wells shall be plugged with concrete, Portland cement concrete grout, bentonite, or similar materials.

65.15(7) Hydrology.

a. *Groundwater table.* A minimum separation of four feet between the top of the liner on any earthen aerobic structure, anaerobic lagoon, or earthen manure storage basin floor and the groundwater table is recommended; however, in no case shall the top of the liner on an earthen aerobic structure, anaerobic lagoon, or earthen manure storage basin floor be below the groundwater table. If the groundwater table is less than two feet below the top of the liner on an earthen aerobic structure, anaerobic lagoon, or earthen manure storage basin floor, the aerobic structure, anaerobic lagoon, or earthen manure storage basin shall be provided with a synthetic liner as described in 65.15(12)*"f."*

b. *Permanent artificial lowering of groundwater table.* The groundwater table around an anaerobic lagoon, aerobic structure, or earthen manure storage basin may be artificially lowered to levels required in paragraph *"a"* by using a gravity flow tile drainage system or other permanent nonmechanical system for artificial lowering of the groundwater table. For a permitted animal feeding operation, detailed engineering and soil drainage information shall be provided with a construction permit application for an earthen aerobic structure, anaerobic lagoon or earthen manure storage basin to confirm the adequacy of the proposed permanent system to provide the required drainage without materially increasing the seepage potential of the site. (See 65.15(1)*"b"* for monitoring and shutoff requirements for drainage tile lines installed to lower the groundwater table.) For formed manure storage structures partially or completely constructed below the normal soil surface, a tile drainage system or other permanent system for artificial lowering of groundwater levels shall be installed around the structure if the groundwater table is above the bottom of the structure.

c. *Determination of groundwater table.* For purposes of this rule, groundwater table is the seasonal high water table determined by a licensed professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or Natural Resources Conservation Service (NRCS). If a construction permit is required, the department must approve the groundwater table determination.

(1) Current groundwater levels shall be measured using at least one of the following for either formed or unformed structures:

1. Temporary monitoring wells. Each of the three temporary monitoring wells shall be developed according to 567—subrule 110.11(8). The top of the well screen shall be within 5 feet of the ground surface. Each well shall be extended to at least 2 feet below the bottom of the liner of an unformed manure storage structure, or to at least 2 feet below the footings of a formed manure storage structure.

- Unformed structures. For an unformed manure storage structure, each monitoring well may be installed in the existing boreholes resulting from the corings required in subrule 65.15(6).
- Formed structures. For a formed manure storage structure, at least three temporary monitoring wells shall be installed as close as possible to three corners of the structure, with one of the wells close to the corner of deepest excavation. If the formed structure is circular, the three monitoring wells shall be equally spaced and one well shall be placed at the point of deepest excavation.

2. Test pits. The department may allow use of test pits in lieu of temporary monitoring wells if seasonal variation in climatic patterns, soil and geologic conditions prevent accurate determination of the seasonal high water table or prior to the construction of an unformed manure storage structure liner to ensure that the required separation distance to the groundwater table is being met. Test pits will be configured 3 feet × 4 feet × 4 feet, or equivalent volume, and the bottom of each pit shall be 2 feet below the floor of the proposed anaerobic lagoon, earthen manure storage basin, earthen aerobic structure or settled open feedlot effluent basin. Each pit shall be allowed to remain open and unaltered for a minimum of seven days for viewing by the department or NRCS qualified staff for the determination of soil characteristics and related groundwater influence. Adequate protection (temporary berms and covers) shall be provided to prevent surface runoff from entering the test pits. One test pit shall be located in each corner and one in the center of the proposed manure control structure, unless otherwise specified by the department. A description of the materials present in the test pit shall be documented by all of the following:

- Digital photos;
- Description of soils including mottling;
- Construction specifications; and
- Weather conditions both prior to and during the period in which test pits are open.

(2) The seasonal high water table shall be determined by measuring the groundwater level in the temporary monitoring wells not earlier than seven days following installation and shall include consideration of NRCS soil survey information, soil characteristics such as color and mottling, other existing water table data, and other pertinent information. If a drainage system for artificially lowering the groundwater table will be installed in accordance with the requirements of paragraph 65.15(7)*"b,"* the level to which the groundwater table will be lowered will be considered to represent the seasonal high water table.

65.15(8) Karst features. The anaerobic lagoon or earthen manure storage basin shall not be located on a site that exhibits Karst features such as sinkholes, or solution channeling generally occurring in areas underlain by limestone or dolomite.

65.15(9) Bedrock separation. A minimum of four feet of separation between an unformed manure storage structure bottom and any bedrock formation is required. A ten-foot separation is recommended. A synthetic liner shall be required if the unformed structure is to be located less than ten feet above a carbonate or limestone formation.

65.15(10) Flooding protection.

a. An animal feeding operation structure proposed to be constructed on land that would be inundated by Q100 shall meet requirements as specified in 567—Chapters 70 to 76, unless otherwise prohibited according to 65.15(10)*"b."*

b. A confinement feeding operation structure shall not be constructed on the one hundred year flood plain.

65.15(11) Seals for anaerobic lagoons, aerobic structures, and earthen manure storage basins. A lagoon or basin shall be sealed such that seepage loss through the seal is as low as practically possible. The percolation rate shall not exceed 1/16 inch per day at the design depth of the lagoon or basin. Following construction of the lagoon or basin, the results of a testing program which indicates the adequacy of the seal shall be provided to this department in writing prior to start-up of a permitted

operation. The owner of a confinement feeding operation not required to obtain a construction permit shall keep a record of the construction methods and materials used to provide the seal and any test results available on the adequacy of the seal.

65.15(12) Aerobic structure, anaerobic lagoon, or earthen manure storage basin liner design and construction standards. An aerobic structure, anaerobic lagoon or earthen manure storage basin which receives a construction permit after January 21, 1998, shall comply with the following minimum standards in addition to subrule 65.15(11).

a. If the location of the proposed aerobic structure, anaerobic lagoon or earthen manure storage basin contains suitable materials as determined by the soil corings taken pursuant to subrule 65.15(6), those materials shall be compacted to establish a minimum of a 12-inch liner. A minimum initial overexcavation of 6 inches of material shall be required. The underlying material shall be scarified, reworked and compacted to a depth of 6 inches. The overexcavated materials shall be replaced and compacted.

b. If the location of the proposed aerobic structure, anaerobic lagoon or earthen manure storage basin does not contain suitable materials as determined by the soil corings taken in subrule 65.15(6), suitable materials shall be compacted to establish a minimum of a 24-inch liner.

c. Where sand seams, gravel seams, organic soils or other materials that are not suitable are encountered during excavation, the area where they are discovered shall be overexcavated a minimum of 24 inches and replaced with suitable materials and compacted.

d. All loose lift material must be placed in lifts of nine inches or less and compacted. The material shall be compacted at or above optimum moisture content and meet a minimum of 95 percent of the maximum density as determined by the Standard Proctor test after compaction.

e. For purposes of this rule, suitable materials means soil, soil combinations or other similar material that is capable of meeting the permeability and compaction requirements. Sand seams, gravel seams, organic soils or other materials generally not suitable for anaerobic lagoon, aerobic structure, or earthen manure storage basin construction are not considered suitable materials.

f. As an alternative to the above standards, a synthetic liner may be used. If the use of a synthetic liner is planned for an earthen aerobic structure, an anaerobic lagoon, or earthen manure storage basin, the permit application shall outline how the site will be prepared for placement of the liner, the physical, chemical, and other pertinent properties of the proposed liner, and information on the procedures to be used in liner installation and maintenance. In reviewing permit applications which involve use of synthetic liners, DNR will consider relevant synthetic liner standards adopted by industry, governmental agencies, and professional organizations as well as technical information provided by liner manufacturers and others.

65.15(13) Anaerobic lagoon design standards. An anaerobic lagoon shall meet the requirements of this subrule.

a. General.

(1) Depth. Liquid depth shall be at least 8 feet but 15 to 20 feet is preferred if soil and other site conditions allow.

(2) Inlet. One subsurface inlet at the center of the lagoon or dual (subsurface and surface) inlets are preferred to increase dispersion. If a center inlet is not provided, the inlet structure shall be located at the center of the longest side of the anaerobic lagoon.

(3) Shape. Long, narrow anaerobic lagoon shapes decrease manure dispersion and should be avoided. Anaerobic lagoons with a length-to-width ratio of greater than 3:1 shall not be allowed.

(4) Aeration. Aeration shall be treatment as an “add-on process” and shall not eliminate the need for compliance with all anaerobic lagoon criteria contained in these rules.

(5) Manure loading frequency. The anaerobic lagoon shall be loaded with manure and dilution water at least once per week.

(6) Design procedure. Total anaerobic lagoon volume shall be determined by summation of minimum stabilization volume; minimum dilution volume (not less than 50 percent of minimum stabilization volume); manure storage between periods of disposal; and storage for 8 inches of precipitation.

(7) Manure storage period. Annual or more frequent manure removal from the anaerobic lagoon, preferably prior to May 1 or after September 15 of the given year, shall be practiced to minimize odor production. Design manure storage volume between disposal periods shall not exceed the volume required to store 14 months' manure production. Manure storage volume shall be calculated based on the manure production values found in Table 5 at the end of this chapter.

b. Minimum stabilization volume and loading rate.

(1) For all animal species other than beef cattle, there shall be 1000 cubic feet minimum design volume for each 5 pounds of volatile solids produced per day if the volatile solids produced per day are 6000 pounds or fewer and for each 4 pounds if the volatile solids produced per day are more than 6000 pounds. For beef cattle, there shall be 1000 cubic feet minimum design volume for each 10 pounds of volatile solids produced per day.

(2) In Lyon, Sioux, Plymouth, Woodbury, Osceola, Dickinson, Emmet, Kossuth, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Pocahontas, Humboldt, Ida, Sac, Calhoun, and Webster counties for all animal species other than beef there shall be 1000 cubic feet minimum design volume for each 4.5 pounds of volatile solids per day if the volatile solids produced per day are 6000 pounds or fewer. However, if a water analysis as required in 65.15(3)*"c"*(2) below indicates that the sulfate level is below 500 milligrams per liter, then the rate is 1000 cubic feet for each 5.0 pounds of volatile solids per day.

(3) Credit shall be given for removal of volatile solids from the manure stream prior to discharge to the lagoon. The credit shall be in the form of an adjustment to the volatile solids produced per day. The adjustments shall be at the rate of 0.50 pound for each pound of volatile solids removed. For example, if a swine facility produces 7000 pounds of volatile solids per day, and if 2000 pounds of volatile solids per day are removed, the volatile solids produced per day would be reduced by 1000 pounds, leaving an adjusted pounds of volatile solids produced per day of 6000 pounds (for which the loading rate would be 5 pounds according to subparagraph (1) above).

(4) Credit shall be given for mechanical aeration if the upper one-third of the lagoon volume is mixed by the aeration equipment and if at least 50 percent of the oxygen requirement of the manure is supplied by the aeration equipment. The credit shall be in the form of an increase in the maximum loading rate (which is the equivalent of a decrease in the minimum design volume) in accordance with Table 8.

(5) If a credit for solids removal is given in accordance with subparagraph (3) above, the credit for qualified aeration shall still be given. The applicant shall submit evidence of the five-day biochemical oxygen demand (BOD5) of the manure after the solids removal so that the aeration credit can be calculated based on an adjustment rate of 0.50 pound for each pound of solids removed.

(6) American Society of Agricultural Engineers (ASAE) standards, "Manure Production and Characteristics," D384.1, or Midwest Plan Service-18 (MWPS-18), Table 2-1, shall be used in determining the BOD5 production and volatile solid production of various animal species.

c. Water supply.

(1) The source of the dilution water discharged to the anaerobic lagoon shall be identified.

(2) The sulfate concentration of the dilution water to be discharged to the anaerobic lagoon shall be identified. The sulfate concentration shall be determined by standard methods as defined in 567—60.2(455B).

(3) A description of available water supplies shall be provided to prove that adequate water is available for dilution. It is recommended that, if the sulfate concentration exceeds 250 mg/l, then an alternate supply of water for dilution should be sought.

d. Initial lagoon loading. Prior to the discharge of any manure to the anaerobic lagoon, the lagoon shall be filled to a minimum of 50 percent of its minimum stabilization volume with fresh water.

e. Lagoon manure and water management during operation. Following initial loading, the manure and water content of the anaerobic lagoon shall be managed according to either of the following:

(1) For single cell lagoons or multicell lagoons without a site-specific lagoon operation plan. The total volume of fresh water for dilution added to the lagoon annually shall equal one-half the minimum stabilization volume. At all times, the amount of fresh water added to the lagoon shall equal or exceed the amount of manure discharged to the lagoon.

(2) For a two or three cell anaerobic lagoon. The manure and water content of the anaerobic lagoon may be managed in accordance with a site-specific lagoon operation plan approved by the department. The lagoon operation plan must describe in detail the operational procedures and monitoring program to be followed to ensure proper operation of the lagoon. Operational procedures shall include identifying the amounts and frequencies of planned additions of manure, fresh water and recycle water, and amount and frequencies of planned removal of solids and liquids. Monitoring information shall include locations and intervals of sampling, specific tests to be performed, and test parameter values used to indicate proper lagoon operation. As a minimum, annual sampling and testing of the first lagoon cell for electrical conductivity (EC) and either chemical oxygen demand (COD) or total ammonia (NH3 + NH4) shall be required.

f. Manure removal. If the anaerobic lagoon is to be dewatered once a year, manure should be removed to approximate the annual manure volume generated plus the dilution water used. If the anaerobic lagoon is to be dewatered more frequently, the anaerobic lagoon liquid level should be managed to maintain adequate freeboard.

65.15(14) Concrete standards. A formed manure storage structure which is constructed of concrete on or after March 24, 2004, that is part of a confinement feeding operation other than a small animal feeding operation shall meet the following minimum standards. For the purpose of this subrule, a "PE" is a professional engineer licensed in the state of Iowa and an "NRCS engineer" is an engineer working for the USDA Natural Resources Conservation Service (NRCS). (CAVEAT: These standards are not intended to address other site-related engineering and construction considerations beyond the department's jurisdiction).

a. Nondry manure storage. The following minimum concrete standards are required for a formed manure storage structure other than that used for the storage of manure exclusively in a dry form. A formed manure storage structure must be designed in accordance with one of the following design methods:

(1) Engineering report, plans and specifications prepared and sealed by a PE or an NRCS engineer. Design considerations shall be in conformance with the American Concrete Institute (ACI) Building Code ACI 318, ACI 360 or ACI 350; or Portland Cement Association (PCA) publication EB075, EB001 or IS072; or MidWest Plan Service (MWPS) publication MWPS-36 or MWPS TR-9, and shall include all of the following:

1. The floors shall be a minimum of 5 inches thick. Nondestructive methods to verify the floor slab thickness may be required by the department. The results shall indicate that at least 95 percent of the floor slab area meets the minimum required thickness. In no case shall the floor slab thickness be less than 4½ inches.

2. Wire mesh shall not be used as primary reinforcement for a formed manure storage structure with a depth of 4 feet or more. Fiber shall not be used as reinforcement.

3. Waterstops shall be installed in all areas where fresh concrete meets hardened concrete. Waterstops shall be made of plastic, rolled bentonite or similar materials approved by the department.

4. The vertical steel of all walls shall be extended into the footing and be bent at 90° or a separate dowel shall be installed. As an alternate to the 90° bend, the dowel may be extended at least 12 inches into the footing, with a minimum concrete cover of 3 inches at the bottom. In lieu of dowels, mechanical means or alternate methods may be used as anchorage of interior walls to footings.

(2) If a formed manure storage structure is not designed and sealed by a PE or an NRCS engineer, the design and specifications shall be in conformance with MWPS-36 (for a belowground rectangular tank) or MWPS TR-9 (for a circular tank); or in accordance with Appendix D at the end of this chapter (for a belowground, laterally braced rectangular tank). In addition, all of the following concrete standards shall apply:

1. The finished subgrade of a formed manure storage structure shall be graded and compacted to provide a uniform and level base and shall be free of vegetation, manure and debris. For the purpose of this subrule, "uniform" means a finished subgrade with similar soils.

2. When the groundwater table, as determined in 65.15(7)*"c,"* is above the bottom of the formed structure, a drain tile shall be installed along the footings to artificially lower the groundwater table

pursuant to 65.15(7)*"b."* The drain tile shall be placed within 3 feet of the footings as indicated in Appendix D, Figure D-1, at the end of this chapter and shall be covered with a minimum of 2 inches of gravel, granular material, fabric or a combination of these materials to prevent plugging the drain tile.

3. All concrete shall have the following minimum as-placed compressive strengths and shall meet American Society for Testing and Materials (ASTM) standard ASTM C 94:

- 4,000 pounds per square inch (psi) for walls, floors, beams, columns and pumpouts;
- 3,000 psi for the footings.

The average concrete strength by testing shall not be below design strength. No single test result shall be more than 500 psi less than the minimum compressive strength.

4. Cementitious materials shall consist of portland cement conforming to ASTM C 150. Aggregates shall conform to ASTM C 33. Blended cements in conformance with ASTM C 595 are allowed only for concrete placed between March 15 and October 15. Portland-pozzolan cement or portland blast furnace slag blended cements shall contain at least 75 percent, by mass, of portland cement.

5. All concrete placed for walls shall be consolidated or vibrated, by manual or mechanical means, or a combination, in a manner which meets ACI 309.

6. All rebar used shall be a minimum of grade 40 steel. All rebar, with the exception of rebar dowels connecting the walls to the floor or footings, shall be secured and tied in place prior to the placing of concrete.

7. All wall reinforcement shall be placed so as to have a rebar cover of 2 inches from the inside face of the wall for a belowground manure storage structure. Vertical wall reinforcement should be placed closest to the inside face. Rebar placement shall not exceed tolerances specified in ACI 318.

8. The floor slab shall be a minimum of 5 inches thick. The floor slab of any formed manure storage structure with a depth of 4 feet or more shall have primary reinforcement consisting of a minimum of #4 rebar placed a maximum of 18 inches on center in each direction placed in a single mat. The floor slab of any formed manure storage structure with a depth less than 4 feet shall have shrinkage reinforcement consisting of a minimum of 6 × 6-W1.4 × W1.4 welded wire fabric. Floor slab reinforcement shall be located in the middle of the thickness of the floor slab. Nondestructive methods to verify the floor slab thickness may be required by the department. The results shall indicate that at least 95 percent of the floor slab area meets the minimum required thickness. In no case shall the floor slab thickness be less than 4½ inches.

9. The footing or the area where the floor comes in contact with the walls and columns shall have a thickness equal to the wall thickness, but in no case be less than 8 inches, and the width shall be at least twice the thickness of the footing. All exterior walls shall have footings below the frostline. Tolerances shall not exceed -½ inch of the minimum footing dimensions.

10. The vertical steel of all walls shall be extended into the footing, and be bent at 90° or a separate dowel shall be installed as a #4 rebar that is bent at 90° with at least 20 inches of rebar in the wall and extended into the footing within 3 inches of the bottom of the footing and extended at least 3 inches horizontally, as indicated in Appendix D, Figure D-1, at the end of this chapter. As an alternative to the 90° bend, the dowel may be extended at least 12 inches into the footing, with a minimum concrete cover of 3 inches at the bottom. Dowel spacing (bend or extended) shall be the same as the spacing for the vertical rebar. In lieu of dowels, mechanical means or alternate methods may be used as anchorage of interior walls to footings.

11. All walls shall be formed with rigid forming systems and shall not be earth-formed.

12. All concrete shall be cured for at least seven days after placing, in a manner which meets ACI 308, by maintaining adequate moisture or preventing evaporation. Proper curing shall be done by ponding, spraying or fogging water; or by using a curing compound that meets ASTM C 309; or by using wet burlap, plastic sheets or similar materials.

13. All construction joints in exterior walls shall be constructed to prevent discontinuity of steel and have properly spliced rebar placed through the joint. Waterstops shall be installed in all areas where fresh concrete will meet hardened concrete as indicated in Appendix D, Figures D-1 and D-2, at the end of this chapter. The waterstops shall be made of plastic, rolled bentonite or similar materials approved by the department.

14. Backfilling of the walls shall not start until the floor slats or permanent bracing have been installed. Backfilling shall be performed with material free of vegetation, large rocks or debris.

15. A formed manure storage structure with a depth greater than 12 feet shall be designed by a PE or an NRCS engineer.

b. Dry manure storage. A formed structure for the storage of manure exclusively in a dry form shall be designed and constructed in accordance with one of the following:

(1) Engineering report, plans and specifications prepared and sealed by a PE or an NRCS engineer. Design considerations shall be in conformance with the American Concrete Institute (ACI) Building Code ACI 318 or ACI 360; or Portland Cement Association (PCA) publication EB075, EB001 or IS072; or MidWest Plan Service (MWPS) publication MWPS-36.

(2) If a formed manure storage structure that stores manure exclusively in a dry form is to be constructed aboveground and the design is not prepared and sealed by a PE or an NRCS engineer, the requirements set forth in 65.15(14)*"a"*(2), numbered paragraphs "1," "3," "4," "5," "6," "8" and "12," shall apply. Consideration shall be given to internal and external loads including, but not limited to, wind loads, building load, manure pile and equipment vehicle loads.

(3) If the formed structure that stores manure exclusively in a dry form is to be constructed below or partially below the ground and the design is not prepared and sealed by a PE or an NRCS engineer, the requirements set forth in 65.15(14)*"a"*(2), numbered paragraphs "1" through "15," shall apply. Wall design shall be in accordance with Appendix D at the end of this chapter or in accordance with MWPS-36. Consideration shall be given to internal and external loads including, but not limited to, lateral earth pressures, hydrostatic pressures, wind loads, manure pile and equipment vehicle loads.

c. Karst terrain—upgraded standards. If the site of the proposed formed manure storage structure is located in an area that exhibits karst terrain or an area that drains into a known sinkhole, the minimum concrete standards set forth in 65.15(14)*"a"* or *"b"* shall apply. In addition, the following requirements apply to all formed manure storage structures that store nondry or dry manure:

(1) A minimum 5-foot vertical separation distance between the bottom of a formed manure storage structure and limestone, dolomite, or other soluble rock is required if the formed manure storage structure is not designed by a PE or an NRCS engineer.

(2) If the vertical separation distance between the bottom of the proposed formed manure storage structure and limestone, dolomite, or other soluble rock is less than 5 feet, the structure shall be designed and sealed by a PE or an NRCS engineer who certifies the structural integrity of the structure. A 2-foot-thick layer of compacted clay liner material shall be constructed underneath the floor of the formed manure storage structure. However, it is recommended that any formed manure storage structure be constructed aboveground if the vertical separation distance between the bottom of the structure and the limestone, dolomite, or other soluble rock is less than 5 feet.

(3) In addition, in an area that exhibits karst terrain or an area that drains into a known sinkhole, a PE, an NRCS engineer or a qualified organization shall submit a soil exploration study based on the results from soil borings or test pits to determine the vertical separation between the bottom of the formed structure and limestone, dolomite, or other soluble rock. A minimum of two soil borings or two test pits, equally spaced within each formed structure, are required. After soil exploration is completed, each soil boring and pit shall be properly plugged with concrete grout, bentonite, or similar materials.

(4) Groundwater monitoring shall be performed as specified by the department.

(5) Backfilling shall not start until the floor slats have been placed or permanent bracing has been installed, and shall be performed with material free of vegetation, large rocks, or debris.

65.15(15) Berm erosion control.

a. The following requirements shall apply to any anaerobic lagoons, earthen aerobic structures, or earthen manure storage basins constructed after May 12, 1999.

(1) Concrete, riprap, synthetic liners or similar erosion control materials or measures shall be used on the berm surface below pipes where manure will enter the anaerobic lagoon, aerobic structure, or earthen manure storage basin.

(2) Concrete, riprap, synthetic liners or similar erosion control materials or measures of sufficient thickness and area to accommodate manure removal equipment and to protect the integrity of the liner

shall be placed at all locations on the berm, side slopes, and base of the anaerobic lagoon, aerobic structure, or earthen manure storage basin where agitation or pumping may cause damage to the liner.

(3) Erosion control materials or measures shall be used at the corners of the anaerobic lagoon, aerobic structure, or earthen manure storage basin.

b. The owner of a confinement feeding operation with an anaerobic lagoon, earthen aerobic structure, earthen manure storage basin, earthen waste slurry storage basin, or earthen egg washwater storage structure shall inspect the structure berms at least semiannually for evidence of erosion. Erosion problems found which may impact either structural stability or liner integrity shall be corrected in a timely manner.

65.15(16) Agricultural drainage wells. After May 29, 1997, a person shall not construct a new or expand an existing earthen aerobic structure, earthen anaerobic lagoon, earthen manure storage basin, earthen waste slurry storage basin, or earthen egg washwater storage structure within an agricultural drainage well area.

65.15(17) Secondary containment barriers for manure storage structures. Secondary containment barriers used to qualify any operation for the exemption provision in subrule 65.12(5) shall meet the following:

a. A secondary containment barrier shall consist of a structure surrounding or downslope of a manure storage structure that is designed to contain 120 percent of the volume of manure stored above the manure storage structure's final grade. If the containment barrier does not surround the manure storage structure, upland drainage must be diverted.

b. The barrier may be constructed of earth, concrete, or a combination of both and shall not have a relief outlet or valve.

c. The base shall slope to a collecting area where storm water can be pumped out. If storm water is contaminated with manure, it shall be land-applied at normal fertilizer application rates in compliance with rule 65.3(455B).

d. Secondary containment barriers constructed entirely or partially of earth shall comply with the following requirements:

(1) The soil surface, including dike, shall be constructed to prevent downward water movement at rates greater than 1×10^{-6} cm/sec and shall be maintained to prevent downward water movement at rates greater than 1×10^{-5} cm/sec.

(2) Dikes shall not be steeper than 45 degrees and shall be protected against erosion. If the slope is 19 degrees or less, grass can be sufficient protection, provided it does not interfere with the required soil seal.

(3) The top width of the dike shall be no less than 3 feet.

e. Secondary containment barriers constructed of concrete shall be watertight and comply with the following requirements:

(1) The base of the containment structure shall be designed to support the manure storage structure and its contents.

(2) The concrete shall be routinely inspected for cracks, which shall be repaired with a suitable sealant.

65.15(18) Human sanitary waste shall not be directed to a manure storage structure or egg washwater storage structure.

65.15(19) Requirements for qualified operations. A confinement feeding operation that meets the definition of a qualified operation shall only use an aerobic structure for manure storage and treatment. This requirement does not apply to a confinement feeding operation that only handles manure in a dry form or to an egg washwater storage structure or to a confinement feeding operation which was constructed before May 31, 1995, and does not expand.

65.15(20) Aboveground formed manure storage structures with external outlet or inlet below the liquid level. A formed manure storage structure which is constructed to allow the storage of manure wholly or partially above ground and which has an external outlet or inlet below the liquid level shall have all of the following:

a. Two or more shutoff valves on any external outlet or inlet below the liquid level. At least one shutoff valve shall be located inside the structure and be operable if the external valve becomes inoperable or broken off.

b. All external outlets or inlets below the liquid level shall be barricaded, encased in concrete, or otherwise protected to minimize accidental destruction.

c. Construction shall be in compliance with the manufacturer's requirements.

d. An emergency response plan for retaining manure at the site and cleanup if the manure storage structure fails or there is any other type of accidental discharge. The plan shall consist of telephone numbers to comply with 65.2(9) and list of contractors, equipment, equipment technical support, and alternative manure storage or land application sites which can be used during inclement weather.

567—65.16(455B) Manure management plan requirements.

65.16(1) In accordance with Iowa Code section 455B.203 as amended by 2002 Iowa Acts, chapter 1137, section 38, the following persons are required to submit manure management plans to the department, including an original manure management plan and an updated manure management plan, as required by this rule:

a. An applicant for a construction permit for a confinement feeding operation. However, a manure management plan shall not be required of an applicant for an egg washwater storage structure.

b. The owner of a confinement feeding operation, other than a small animal feeding operation, if one of the following applies:

(1) The confinement feeding operation was constructed or expanded after May 31, 1985, regardless of whether the confinement feeding operation structure was required to have a construction permit.

(2) The owner constructs a manure storage structure, regardless of whether the person is required to be issued a permit for the construction pursuant to Iowa Code section 455B.200A as amended by 2002 Iowa Acts, chapter 1137, sections 28 and 29, or whether the person has submitted a prior manure management plan.

c. A person who applies manure in Iowa that was produced in a confinement feeding operation, other than a small operation, located outside of Iowa.

d. A research college is exempt from this subrule and the manure management plan requirements of rule 65.17(459) for research activities and experiments performed under the authority of the research college and related to animal feeding operations.

65.16(2) Effective February 13, 2002, an owner of a proposed confinement feeding operation who is required to file a manure management plan pursuant to paragraph 65.16(1)*"b"* shall submit the confinement feeding operation's manure management plan to the department at least 30 days before the construction of an animal feeding operation structure begins, as that term is defined in subrules 65.8(1) and 65.8(2). After the manure management plan has been received by the department, the department will date-stamp the plan as received and provide written confirmation of receipt to the owner. In addition to the content requirements specified in rule 65.17(459), the owner shall include:

a. Documentation that the board of supervisors or auditor of the county where the confinement feeding operation is proposed to be located received a copy of the plan.

b. Information (e.g., maps, drawings, aerial photos) that clearly shows the intended location of the animal feeding operation structures and locations and animal weight capacities of any other confinement feeding operations within a distance of 2,500 feet in which the owner has an ownership interest or which the owner manages.

65.16(3) Scope of manure management plan; updated plans; annual compliance fee.

a. Each confinement feeding operation required to submit a manure management plan shall be covered by a separate manure management plan.

b. The owner of a confinement feeding operation who is required to submit a manure management plan under this rule shall submit an updated manure management plan on an annual basis to the department. The updated plan must reflect all amendments made during the period of time since the previous manure management plan submission. The owner of the animal feeding operation shall also submit the updated manure management plan on an annual basis to the board of supervisors of each

county where the confinement feeding operation is located and to the board of supervisors of each county where manure from the confinement feeding operation is land-applied. If the owner of the animal feeding operation has not previously submitted a manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied, the owner must submit a complete manure management plan to each required county. The county auditor or other county official or employee designated by the county board of supervisors may accept the updated plan on behalf of the board. The updated plan shall include documentation that the county board of supervisors or other designated county official or employee received the manure management plan update. The department will stagger the dates by which the updated manure management plans are due and will notify each confinement feeding operation owner of the date on which the updated manure management plan is due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation must submit one of the following:

(1) A complete manure management plan;

(2) A department-approved document stating that the manure management plan submitted in the prior year has not changed; or

(3) A department-approved document listing all the changes made since the previous manure management plan was submitted and approved.

c. An annual compliance fee of $0.15 per animal unit at the animal feeding operation shall accompany an annual manure management plan update submitted to the department for approval. The annual compliance fee is based on the animal unit capacity of the confinement feeding operation stated in the updated annual manure management plan submission. If the person submitting the manure management plan is a contract producer, as provided in Iowa Code chapter 202, the active contractor shall pay the annual compliance fee.

65.16(4) The department shall review and approve or disapprove all complete manure management plans within 60 days of the date they are received.

65.16(5) Manure shall not be removed from a manure storage structure, which is part of a confinement feeding operation required to submit a manure management plan, until the department has approved the plan. As an exception to this requirement, until July 1, 2002, the owner of a confinement feeding operation may remove and apply manure from a manure storage structure in accordance with a manure management plan submitted to the department prior to September 18, 2001, but which has not been approved within the required 60-day period. Manure shall be applied in compliance with rule 65.2(455B).

65.16(6) All persons required to submit a manure management plan to the department shall also pay to the department an indemnity fee as required in Iowa Code section 455J.3 except those operations constructed prior to May 31, 1995, which were not required to obtain a construction permit.

65.16(7) Any person submitting an original manure management plan must also pay to the department a manure management plan filing fee of $250. This fee shall be included with each original manure management plan being submitted. If the confinement feeding operation is required to obtain a construction permit and to submit an original manure management plan as part of the construction permit requirements, the applicant must pay the manure management plan filing fee together with the construction permit application fee, which total $500.

567—65.17(459) Manure management plan content requirements. All manure management plans are to be submitted on forms or electronically as prescribed by the department. The plans shall include all of the information specified in Iowa Code section 459.312 and as described below.

65.17(1) *General.*

a. A confinement feeding operation that is required to submit a manure management plan to the department shall not apply manure in excess of the nitrogen use levels necessary to obtain optimum crop yields. When a phosphorus index is required in a manure management plan as provided in 65.17(1)*"d,"* a confinement feeding operation shall not apply manure in excess of the rates determined in conjunction with the phosphorus index. Information to complete the required calculations may be obtained from the tables in this chapter, actual testing samples or from other credible sources including, but not limited to,

Iowa State University, the United States Department of Agriculture (USDA), a licensed professional engineer, or an individual certified as a crop consultant under the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS) program, the Certified Crop Advisors (CCA) program, or the Registry of Environmental and Agricultural Professionals (REAP) program.

b. Manure management plans shall comply with the minimum manure control requirements of 65.2(455B) and the requirements for land application of manure in 65.3(455B).

c. Manure management plans shall include all of the following:

(1) The name of the owner and the name of the confinement feeding operation, including mailing address and telephone number.

(2) The name of the contact person for the confinement feeding operation, including mailing address and telephone number.

(3) The location of the confinement feeding operation identified by county, township, section, 1/4 section and, if available, the 911 address.

(4) The animal unit capacity of the confinement feeding operation and, if applicable, the animal weight capacity.

d. A person who submits a manure management plan shall include a phosphorus index as part of the manure management plan as follows:

(1) A person who submitted an original manure management plan prior to April 1, 2002, shall submit a phosphorus index with the first manure management plan update on and after August 25, 2008.

(2) A person who submitted an original manure management plan on or after April 1, 2002, but prior to October 25, 2004, shall submit a phosphorus index with the first manure management plan update on and after August 25, 2006.

(3) A person who submits an original manure management plan on and after October 25, 2004, shall include the phosphorus index as part of the original manure management plan and manure management plan updates.

65.17(2) *Manure management plans for sales of manure.* Selling manure means the transfer of ownership of the manure for monetary or other valuable consideration. Selling manure does not include a transaction where the consideration is the value of the manure, or where an easement, lease or other agreement granting the right to use the land only for manure application is executed.

a. Confinement feeding operations that will sell dry manure as a commercial fertilizer or soil conditioner regulated by the Iowa department of agriculture and land stewardship (IDALS) under Iowa Code chapter 200 or 200A shall submit a copy of their site-specific IDALS license or documentation that manure will be sold pursuant to Iowa Code chapter 200 or 200A, along with the department-approved manure management plan form for sales of dry manure. Operations completely covered by this paragraph are not required to meet other manure management plan requirements in this rule.

b. A confinement feeding operation not fully covered by paragraph *"a"* above and that has an established practice of selling manure, or a confinement feeding operation that contains an animal species for which selling manure is a common practice, shall submit a manure management plan that includes the following:

(1) Until a phosphorus index is required as part of the manure management plan, an estimate of the number of acres required for manure application shall be calculated by dividing the total nitrogen available to be applied from the confinement feeding operation by the crop usage rate. Crop usage rate may be estimated by using a corn crop usage rate factor and an estimate of the optimum crop yield for the property in the vicinity of the confinement feeding operation.

(2) When a phosphorus index is required as part of the manure management plan, an estimate of the number of acres required for manure application shall be calculated by one of the following methods:

1. Dividing the total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation by the corn crop removal of phosphorus. The corn crop removal of phosphorus may be estimated by using the phosphorus removal rate in Table 4a at the end of this chapter and an estimate of the optimum crop yield for the property in the vicinity of the operation.

2. Totaling the quantity of manure that can be applied to each available field based on application rates determined in conjunction with the phosphorus index in accordance with 65.17(17), and ensuring

that the total quantity that can be applied is equal to or exceeds the manure annually generated at the operation.

(3) The total nitrogen available to be applied from the confinement feeding operation.

(4) The total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation if the phosphorus index is required in accordance with 65.17(1)*"d."*

(5) An estimate of the annual animal production and manure volume or weight produced.

(6) A manure sales form, if manure will be sold, shall include the following information:

1. A place for the name and address of the buyer of the manure.
2. A place for the quantity of manure purchased.
3. The planned crop schedule and optimum crop yields.
4. A place for the manure application methods and the timing of manure application.
5. A place for the location of the field including the number of acres where the manure will be applied.
6. A place for the manure application rate.
7. When a phosphorus index is required as part of a manure management plan in accordance with 65.17(1)*"d,"* a place for a phosphorus index of each field receiving manure, as defined in 65.17(17)*"a,"* including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation.

(7) Statements of intent if the manure will be sold. The number of acres indicated in the statements of intent shall be sufficient according to the manure management plan to apply the manure from the confinement feeding operation. The permit holder for an existing confinement feeding operation with a construction permit may submit past records of manure sales instead of statements of intent. The statements of intent shall include the following information:

1. The name and address of the person signing the statement.
2. A statement indicating the intent of the person to purchase the confinement feeding operation's manure.
3. The location of the farm where the manure can be applied including the total number of acres available for manure application.
4. The signature of the person who may purchase the confinement feeding operation's manure.

(8) The owner shall maintain in the owner's records a current manure management plan and copies of all of the manure sales forms; the sales forms must be completed and signed by each buyer of the manure and the applicant, and the copies must be maintained in the owner's records for three years after each sale. Effective August 25, 2006, the owner shall maintain in the owner's records copies of all of the manure sales forms for five years after each sale. An owner of a confinement feeding operation shall not be required to maintain current statements of intent as part of the manure management plan.

65.17(3) *Manure management plan for nonsales of manure.* Confinement feeding operations that will not sell all of their manure shall submit the following for that portion of the manure which will not be sold:

a. Calculations to determine the land area required for manure application.

b. The total nitrogen available to be applied from the confinement feeding operation.

c. The planned crop schedule and optimum crop yields.

d. Manure application methods and timing of the application.

e. The location of manure application.

f. An estimate of the annual animal production and manure volume or weight produced.

g. Methods, structures or practices that will be used to reduce soil loss and prevent surface water pollution.

h. Methods or practices that will be utilized to reduce odor if spray irrigation equipment is used to apply manure.

i. When a phosphorus index is required as part of the manure management plan in accordance with 65.17(1)*"d,"* the following are required:

(1) The total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation.

(2) A phosphorus index of each field in the manure management plan, as defined in 65.17(17)*"a,"* including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation.

65.17(4) *Manure management plan calculations to determine land area required for manure application.*

a. The number of acres needed for manure application for each year of the crop schedule shall be determined as follows:

(1) Until a phosphorus index is required in accordance with 65.17(1)*"d,"* the requirements of 65.17(18) shall be followed.

(2) When a phosphorus index is required in accordance with 65.17(1)*"d,"* the requirements of 65.17(17) shall be followed.

b. Operations evaluated with the master matrix pursuant to 65.10(3) that claim points for additional separation distance for the land application of manure must maintain those distances for each year of the manure management plan.

c. Nitrogen in addition to that allowed in the manure management plan may be applied up to the amounts, indicated by soil or crop nitrogen test results, necessary to obtain the optimum crop yield.

65.17(5) *Total nitrogen and total phosphorus (as P_2O_5) available from the confinement feeding operation.*

a. To determine the nitrogen available to be applied per year, the factors in Table 3, "Annual Pounds of Nitrogen Per Space of Capacity," multiplied by the number of spaces shall be used. To determine total phosphorus (as P_2O_5) available to be applied per year, the factors in Table 3a, "Annual Pounds of Phosphorus Per Space of Capacity," multiplied by the number of spaces shall be used. If the tables are not used to determine the nitrogen or phosphorus available to be applied, other credible sources for standard table values or the actual nitrogen and phosphorus content of the manure may be used. The actual nitrogen and phosphorus content shall be determined by a laboratory analysis along with measured volume or weight of manure from the manure storage structure or from a manure storage structure with design and management similar to the confinement feeding operation's manure storage structure.

b. If an actual sample is used to represent the nutrient content of manure, the sample shall be taken in accordance with Iowa State University extension publication PM 1558, "Management Practices: How to Sample Manure for Nutrient Analysis." The department may require documentation of the manure sampling protocol or take a split sample to verify the nutrient content of the operation's manure.

65.17(6) *Optimum crop yield and crop schedule.*

a. To determine the optimum crop yield, the applicant may either exclude the lowest crop yield for the period of the crop schedule in the determination or allow for a crop yield increase of 10 percent. In using these methods, adjustment to update yield averages to current yield levels may be made if it can be shown that the available yield data is not representative of current yields. The optimum crop yield shall be determined using any of the following methods for the cropland where the manure is to be applied:

(1) Soil survey interpretation record. The plan shall include a map showing soil map units for the fields where manure will be applied. The optimum crop yield for each field shall be determined by using the weighted average of the soil interpretation record yields for the soils on the cropland where the manure is to be applied. Soil interpretation records from the Natural Resources Conservation Service shall be used to determine yields based on soil map units.

(2) USDA county crop yields. The plan shall use the county yield data from the USDA Iowa Agricultural Statistics Service.

(3) Proven yield methods. Proven yield methods may only be used if a minimum of the most recent three years of yield data for the crop is used. These yields can be proven on a field-by-field or farm-by-farm basis. Crop disaster years may be excluded when there is a 30 percent or more reduction in yield for a particular field or farm from the average yield over the most recent five years. Excluded years shall be replaced by the most recent nondisaster years. Proven yield data used to determine application rates shall be maintained with the current manure management plan. Any of the following proven yield methods may be used:

1. Proven yields for USDA Farm Service Agency. The plan shall use proven yield data or verified yield data for Farm Service Agency programs.

2. Proven yields for multiperil crop insurance. Yields established for the purpose of purchasing multiperil crop insurance shall be used as proven yield data.

3. Proven yields from other methods. The plan shall use the proven yield data and indicate the method used in determining the proven yield.

b. Crop schedule. Crop schedules shall include the name and total acres of the planned crop on a field-by-field or farm-by-farm basis where manure application will be made. A map may be used to indicate crop schedules by field or farm. The planned crop schedule shall name the crop(s) planned to be grown for the length of the crop rotation beginning with the crop planned or actually grown during the year this plan is submitted or the first year manure will be applied. The confinement feeding operation owner shall not be penalized for exceeding the nitrogen or phosphorus application rate for an unplanned crop, if crop schedules are altered because of weather, farm program changes, market factor changes, or other unforeseeable circumstances.

65.17(7) *Manure application methods and timing.*

a. The manure management plan shall identify the methods that will be used to land-apply the confinement feeding operation's manure. Methods to land-apply the manure may include, but are not limited to, surface-apply dry with no incorporation, surface-apply liquids with no incorporation, surface-apply liquid or dry with incorporation within 24 hours, surface-apply liquid or dry with incorporation after 24 hours, knifed in or soil injection of liquids, or irrigated liquids with no incorporation.

b. The manure management plan shall identify the approximate time of year that land application of manure is planned. The time of year may be identified by season or month.

65.17(8) *Location of manure application.*

a. The manure management plan shall identify each farm where the manure will be applied, the number of acres that will be available for the application of manure from the confinement feeding operation, and the basis under which the land is available.

b. A copy of each written agreement executed with the owner of the land where manure will be applied shall be maintained with the current manure management plan. The written agreement shall indicate the acres on which manure from the confinement feeding operation may be applied and the length of the agreement. A written agreement is not required if the land is owned or rented for crop production by the owner of the confinement feeding operation.

c. If a present location becomes unavailable for manure application, additional land for manure application shall be identified in the current manure management plan prior to the next manure application period.

65.17(9) *Estimate of annual animal production and manure volume or weight produced.* Volumes or weights of manure produced shall be estimated based on the numbers of animals, species, and type of manure storage used. The plan shall list the annually expected number of production animals by species. The volume of manure may be estimated based on the values in Table 5 at the end of this chapter and submitted as a part of the plan. If the plan does not use the table to determine the manure volume, other credible sources for standard table values or the actual manure volume from the confinement feeding operation may be used.

65.17(10) *Methods to reduce soil loss and potential surface water pollution.* The manure management plan shall include an identification of the methods, structures or practices that will be used to prevent or diminish soil loss and potential surface water pollution during the application of manure. Until a phosphorus index is required in accordance with 65.17(1)*"d,"* the current manure management plan shall maintain a summary or copy of the conservation plan for the cropland where manure from the animal feeding operation will be applied if the manure will be applied on highly erodible cropland. The conservation plan shall be the conservation plan approved by the local soil and water conservation district or its equivalent. The summary of the conservation plan shall identify the methods, structures or practices that are contained in the conservation plan. When a phosphorus index is required in accordance with 65.17(1)*"d,"* the manure management plan shall indicate for each field in the plan the

crop rotation, tillage practices and supporting practices used to calculate sheet and rill erosion for the phosphorus index. A copy of the NRCS RUSLE2 profile erosion calculation record shall satisfy the requirement to indicate the crop rotation, tillage practices and supporting practices to calculate sheet and rill erosion. The plan shall also identify the highly erodible cropland where manure will be applied. The manure management plan may include additional information such as whether the manure will be injected or incorporated or the type of manure storage structure.

65.17(11) *Spray irrigation.* Requirements contained in subrules 65.3(2) and 65.3(3) regarding the use of spray irrigation equipment to apply manure shall be followed. A plan which has identified spray irrigation equipment as the method of manure application shall identify any additional methods or practices to reduce potential odor, if any other methods or practices will be utilized.

65.17(12) *Current manure management plan.* The owner of a confinement feeding operation who is required to submit a manure management plan shall maintain a current manure management plan at the site of the confinement feeding operation or at a residence or office of the owner or operator of the operation within 30 miles of the site. The plan shall include completed manure sales forms for a confinement feeding operation from which manure is sold. If manure management practices change, a person required to submit a manure management plan shall make appropriate changes consistent with this rule. If values other than the standard table values are used for manure management plan calculations, the source of the values used shall be identified.

65.17(13) *Record keeping.* Records shall be maintained by the owner of a confinement feeding operation who is required to submit a manure management plan. This recorded information shall be maintained for three years following the year of application or for the length of the crop rotation, whichever is greater. Effective August 25, 2006, records shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the confinement feeding operation or at a residence or office of the owner or operator of the facility within 30 miles of the site. Records to demonstrate compliance with the manure management plan shall include the following:

a. Factors used to calculate the manure application rate:

(1) Optimum yield for the planned crop.

(2) Types of nitrogen credits and amounts.

(3) Remaining crop nitrogen needed.

(4) Nitrogen content and first-year nitrogen availability of the manure.

(5) Phosphorus content of the manure if required in accordance with 65.17(3)*"i."* If an actual sample is used, documentation shall be provided.

b. If phosphorus-based application rates are used, the following shall be included:

(1) Crop rotation.

(2) Phosphorus removed by crop harvest of that crop rotation.

c. Maximum allowable manure application rate.

d. Actual manure application information:

(1) Methods of application when manure from the confinement feeding operation was applied.

(2) Date(s) when the manure from the confinement feeding operation was applied.

(3) Location of the field where the manure from the confinement feeding operation was applied, including the number of acres.

(4) The manure application rate.

e. Effective August 25, 2005, date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received manure. However, if the date and application rate information is for fields which are not owned for crop production or which are not rented or leased for crop production by the person required to keep records pursuant to this subrule, an enforcement action for noncompliance with a manure management plan or the requirements of this subrule shall not be pursued against the person required to keep records pursuant to this subrule or against any other person who relied on the date and application rate in records required to be kept pursuant to this subrule, unless that person knew or should have known that nitrogen or phosphorus would be applied in excess of maximum levels set forth in paragraph 65.17(1)*"a."* If manure is applied to fields not owned, rented or leased for crop

production by the person required to keep records pursuant to this subrule, that person shall obtain from the person who owns, rents or leases those fields a statement specifying the planned commercial nitrogen and phosphorus fertilizer rates to be applied to each field receiving the manure.

f. When a phosphorus index is required in accordance with 65.17(1)*"d,"* a copy of the current soil test lab results for each field in the manure management plan.

g. For sales of manure under 65.17(2)*"b,"* record-keeping requirements of 65.17(2)*"b"*(8) shall be followed.

65.17(14) *Record inspection.* The department may inspect a confinement feeding operation at any time during normal working hours and may inspect the manure management plan and any records required to be maintained. As required in Iowa Code section 459.312(12), Iowa Code chapter 22 shall not apply to the records which shall be kept confidential by the department and its agents and employees. The contents of the records are not subject to disclosure except as follows:

a. Upon waiver by the owner of the confinement feeding operation.

b. In an action or administrative proceeding commenced under this chapter. Any hearing related to the action or proceeding shall be closed.

c. When required by subpoena or court order.

65.17(15) *Enforcement action.* An owner required to provide the department a manure management plan pursuant to this rule who fails to provide the department a plan or who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than assessment of a civil penalty pursuant to Iowa Code section 455B.191.

65.17(16) *Soil sampling requirements for fields where the phosphorus index must be used.* Soil samples shall be obtained from each field in the manure management plan at least once every four years. Each soil sample shall be analyzed for phosphorus and pH. The soil sampling protocol shall meet all of the following requirements:

a. Acceptable soil sampling strategies include, but are not limited to, grid sampling, management zone sampling, and soil type sampling. Procedural details can be taken from Iowa State University extension publication PM 287, "Take a Good Soil Sample to Help Make Good Decisions," NCR-13 Report 348, "Soil Sampling for Variable-Rate Fertilizer and Lime Application," or other credible soil sampling publications.

b. Each soil sample must be a composite of at least ten soil cores from the sampling area, with each core containing soil from the top six inches of the soil profile.

c. Each soil sample shall represent no more than ten acres. For fields less than or equal to 15 acres, only one soil sample is necessary.

d. Soil analysis must be performed by a lab enrolled in the IDALS soil testing certification program.

e. The soil phosphorus test method must be an appropriate method for use with the phosphorus index. If soil pH is greater than or equal to 7.4, soil phosphorus data from the Bray-1 extraction method is not acceptable for use with the phosphorus index.

65.17(17) *Use of the phosphorus index.* Manure application rates shall be determined in conjunction with the use of the Iowa Phosphorus Index as specified by the USDA Natural Resources Conservation Service (NRCS) Iowa Technical Note No. 25.

a. The phosphorus index shall be used on each individual field in the manure management plan. The fields must be contiguous and shall not be divided by a public thoroughfare or a water source as each is defined in this chapter. Factors to be considered when a field is defined may include, but are not limited to, cropping system, erosion rate, soil phosphorus concentration, nutrient application history, and the presence of site-specific soil conservation practices.

b. When sheet and rill erosion is calculated for the phosphorus index, the soil type used for the calculation shall be the most erosive soil map unit that is at least 10 percent of the total field area.

c. The average (arithmetic mean) soil phosphorus concentration of a field shall be used in the phosphorus index.

d. Soil phosphorus concentration data is considered valid for use in the phosphorus index if the data is four years old or less and meets the requirements of 65.17(16).

e. For an original manure management plan, previous soil sampling data that does not meet the requirements of 65.17(16) may be used in the phosphorus index if the data is four years old or less. In the case of fields for which soil sampling data is used that does not meet the requirements of 65.17(16), the fields must be soil-sampled according to the requirements of 65.17(16) no more than one year after the manure management plan is approved.

f. The following are the manure application rate requirements for fields that are assigned the phosphorus index site vulnerability ratings below as determined by the NRCS Iowa Technical Note No. 25 to the NRCS 590 standard rounded to the nearest one-hundredth:

(1) Very Low (0-1).

1. Manure shall not be applied in excess of a nitrogen-based rate in accordance with 65.17(18).

2. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Very Low risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(2) Low (>1-2).

1. Manure shall not be applied in excess of a nitrogen-based rate in accordance with 65.17(18).

2. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Low risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(3) Medium (>2-5).

1. Manure may be applied at a nitrogen-based rate in accordance with 65.17(18) if current or planned soil conservation and phosphorus management practices predict the rating of the field to be not greater than 5 for the next determination of the phosphorus index as required by 65.17(17)*"h"*(3).

2. Manure shall not be applied in excess of two times the phosphorus removed with crop harvest over the period of the crop rotation.

3. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Medium risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(4) High (>5-15). Manure shall not be applied on a field with a rating greater than 5 and less than or equal to 15 until practices are adopted which reduce the phosphorus index to at least the Medium risk category. However, prior to December 31, 2008, fields with a phosphorus index greater than 5 and less than or equal to 10 may receive manure at a phosphorus-based rate in accordance with 65.17(19) if practices will be adopted to reduce the phosphorus index to the Medium risk category.

(5) Very High (>15). Manure shall not be applied on a field with a rating greater than 15.

g. Additional commercial fertilizer may be applied as follows on fields receiving manure:

(1) Phosphorus fertilizer may be applied in addition to phosphorus provided by the manure up to amounts recommended by soil tests and Iowa State University extension publication PM 1688, "General Guide for Crop Nutrient Recommendations in Iowa."

(2) Nitrogen fertilizer may be applied in addition to nitrogen provided by the manure to meet the remaining nitrogen need of the crop as calculated in the current manure management plan. Additional nitrogen fertilizer may be applied up to the amounts indicated by soil test nitrogen results or crop nitrogen test results as necessary to obtain the optimum crop yield.

h. Updating the phosphorus index.

(1) When any inputs to the phosphorus index change, an operation shall recalculate the phosphorus index and adjust the application rates if necessary.

(2) If additional land becomes available for manure application, the phosphorus index shall be calculated to determine the manure application rate before manure is applied.

(3) An operation must submit a complete manure management plan using a new phosphorus index for each field in the manure management plan a minimum of once every four years.

65.17(18) *Requirements for application of a nitrogen-based manure rate to a field.*

a. Nitrogen-based application rates shall be based on the total nitrogen content of the manure unless the calculations are submitted to show that nitrogen crop usage rates based on plant-available nitrogen have not been exceeded for the crop schedule submitted.

b. The correction factor for nitrogen losses shall be determined for the method of application by the following or from other credible sources for nitrogen volatilization correction factors.

Knifed in or soil injection of liquids	0.98
Surface-apply liquid or dry with incorporation within 24 hours	0.95
Surface-apply liquid or dry with incorporation after 24 hours	0.80
Surface-apply liquids with no incorporation	0.75
Surface-apply dry with no incorporation	0.70
Irrigated liquids with no incorporation	0.60

c. Nitrogen-based application rates shall be based on the optimum crop yields as determined in 65.17(6) and crop nitrogen usage rate factor values in Table 4 at the end of this chapter or other credible sources. However, subject to the prohibition in 65.17(20), liquid manure applied to land that is currently planted to soybeans or to land where the current crop has been harvested and that will be planted to soybeans the next crop season shall not exceed 100 pounds of available nitrogen per acre. Further, the 100 pounds per acre application limitation in the previous sentence does not apply on or after June 1 of each year; in that event 65.17(6) and Table 4 would apply as provided in the first sentence of this paragraph.

d. A nitrogen-based manure rate shall account for legume production in the year prior to growing corn or other grass crops and shall account for any planned commercial fertilizer application.

65.17(19) *Requirements for application of a phosphorus-based manure rate to a field.*

a. Phosphorus removal by harvest for each crop in the crop schedule shall be determined using the optimum crop yield as determined in 65.17(6) and phosphorus removal rates of the harvested crop from Table 4a at the end of this chapter or other credible sources. Phosphorus crop removal shall be determined by multiplying optimum crop yield by the phosphorus removal rate of the harvested crop.

b. Phosphorus removal by the crop schedule shall be determined by summing the phosphorus crop removal values determined in 65.17(19)*"a"* for each crop in the crop schedule.

c. The phosphorus applied over the duration of the crop schedule shall be less than or equal to the phosphorus removed with harvest during that crop schedule as calculated in 65.17(19)*"b"* unless additional phosphorus is recommended by soil tests and Iowa State University extension publication PM 1688, "General Guide for Crop Nutrient Recommendations in Iowa."

d. Additional requirements for phosphorus-based rates.

(1) No single manure application shall exceed the nitrogen-based rate of the planned crop receiving the particular manure application.

(2) No single manure application shall exceed the rate that applies to the expected amount of phosphorus removed with harvest by the next four anticipated crops in the crop schedule.

e. If the actual crop schedule differs from the planned crop schedule, then any surplus or deficit of phosphorus shall be accounted for in the subsequent manure application.

f. Phosphorus in manure should be considered 100 percent available unless soil phosphorus concentrations are below optimum levels for crop production. If soil phosphorus concentrations are below optimum levels for crop production phosphorus availability, values suggested in Iowa State University extension publication PM 1811, "Managing Manure Nutrients for Crop Production" or other credible sources shall be used.

65.17(20) *Liquid manure on land planted to soybeans.* Effective May 14, 2013, the owner of a confinement feeding operation that is required to submit a manure management plan shall not apply liquid manure to land that is currently planted to soybeans or to land where the current crop has been harvested and that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

567—65.18(455B) Construction certification. A confinement feeding operation which obtains a construction permit after March 20, 1996, shall submit to the department a certification from a licensed professional engineer that the manure storage structure in which manure is stored in a liquid or semiliquid form or the egg washwater storage structure was:

1. Constructed in accordance with the design plan. If actual construction deviates from the approved plans, identify all changes and certify that the changes were consistent with the standards of these rules or statute;

2. Supervised by the licensed professional engineer or a designee of the engineer during critical points of the construction. A designee shall not be the permittee, owner of the confinement feeding operation, a direct employee of the permittee or owner, or the contractor or an employee of the contractor;

3. Inspected by the licensed professional engineer after completion of construction and before commencement of operation; and

4. Constructed in accordance with the drainage tile removal standards of subrule 65.15(1), and including a report of the findings and actions taken to comply with this subrule.

567—65.19(455B) Manure applicators certification.

65.19(1) A commercial manure service, a commercial manure service representative or a confinement site manure applicator shall not apply dry or liquid manure to land, unless the person is certified. A person is not required to be certified as a confinement site manure applicator if the person applies manure which originates from a manure storage structure which is part of a small animal feeding operation. Certification of a commercial manure service representative under this rule will also satisfy the commercial license requirement under 567—Chapter 68 only as it applies to manure removal and application. Each person who operates a manure applicating vehicle or equipment must be certified individually except as allowed in subrule 65.19(7).

65.19(2) Fees.

a. Commercial manure service. Effective January 1, 2004, the fee for a new or renewed certification of a service is $200. The commercial manure service shall designate one manager for the service and shall provide the department with documentation of the designation.

b. Commercial manure service representative. Effective January 1, 2004, the fee for a new or renewed representative certification is $75. The manager of a commercial manure service must be certified as a commercial manure service representative, but is exempt from paying the $75 certification fee.

c. Confinement site manure applicator. Effective January 1, 2003, the fee for a new or renewed certification is $100. However, the fee is not required if all of the following apply:

(1) The person indicates that the person is a family member as defined in this chapter by submitting a completed form provided by the department;

(2) The person is certified as a confinement site manure applicator within one year of the date another family member was certified or whose certification as a confinement site manure applicator was renewed;

(3) The other family member certified as a confinement site manure applicator has paid the certification fee.

d. Educational fee. Effective May 30, 2003, commercial manure service representatives, managers and confinement site manure applicators shall pay an educational fee to be determined annually by the department.

e. Late fee. Renewal applications received after March 1 require that an additional $12.50 fee be paid before the certification is renewed. An application is considered to be received on the date it is postmarked.

f. Duplicate certificate. The fee for a duplicate certificate is $15.

65.19(3) Certification requirements. To be certified by the department as a commercial manure service, a commercial manure service representative or a confinement site manure applicator, a person must do all of the following:

a. Apply for certification on a form provided by the department.

b. Pay the required fees set forth in subrule 65.19(2).

c. Pass the examination given by the department or, in lieu of the examination, attend continuing instruction courses as described in subrule 65.19(6).

65.19(4) Certification term, renewal and grace period.

a. *Certification term.* Certification for a commercial manure service and commercial manure service representative shall be for a period of one year and shall expire on March 1 of each year. Certification for a confinement site manure applicator shall be for a period of three years and shall expire on December 31 of the third year. After June 30, 2001, the expiration dates of confinement site manure applicator certifications that currently expire on a date other than December 31 are automatically extended to December 31 of the year the certification expires.

b. *Renewal.* Application for renewal of a commercial manure service certification or a commercial manure service representative certification must be received by the department no later than March 1 of the year the certification expires. Application for renewal of a confinement site manure applicator certification must be received by the department or postmarked no later than March 1 after the year the certification expires. Application shall be on forms provided by the department and shall include:

(1) Certification renewal and educational fees.

(2) A passing grade on the certification examination or proof of attending the required hours of continuing instructional courses.

c. *Substitution of employees.* If a commercial manure service pays the certification fee for a representative, the service may substitute representatives. The substituted representative must be certified pursuant to 65.19(3). The service shall provide documentation to the department, on forms provided by the department, that the substitution is valid.

d. *Grace period.* Except as provided in this paragraph, a commercial manure service, a commercial manure service representative or a confinement site manure applicator may not continue to apply manure after expiration of a certificate. A confinement site manure applicator may continue to apply manure until March 1 following the year the certification expires, provided a complete renewal application, as provided in paragraph *"b,"* is postmarked or received by the department prior to March 1. Commercial manure services and representatives must submit an application for certification renewal by March 1 of each year.

65.19(5) Examinations.

a. A person wishing to take the examination required to become a certified commercial manure service representative or certified confinement site manure applicator may request a listing of dates and locations of examinations. The applicant must have a photo identification card at the time of taking the examination.

b. If a person fails the examination, the person may retake the examination, but not on the same business day.

c. Upon written request by an applicant, the director will consider the presentation of an oral examination on an individual basis when the applicant has failed the written examination at least twice; and the applicant has shown difficulty in reading or understanding written questions but may be able to respond to oral questioning.

65.19(6) Continuing instruction courses in lieu of examination.

a. To establish or maintain certification, between March 1 and March 1 of the next year, a commercial manure service representative must each year either pass an examination or attend three hours of continuing instructional courses.

b. To establish or maintain certification, a confinement site manure applicator must either pass an examination every three years or attend two hours of continuing instructional courses each year.

65.19(7) Exemption from certification.

a. Certification as a commercial manure service representative is not required of a person who is any of the following:

(1) Actively engaged in farming and who trades work with another such person.

(2) Employed by a person actively engaged in farming not solely as a manure applicator but who applies manure as an incidental part of the person's general duties.

(3) Engaged in applying manure as an incidental part of a custom farming operation.

(4) Engaged in applying manure as an incidental part of the person's duties.

(5) Applying, transporting, handling or storing manure within a period of 30 days from the date of initial employment as a commercial manure service representative if the person applying the manure is acting under direct instructions and control of a certified commercial manure service representative who is physically present at the manure application site by being in sight or immediate communication distance of the supervised person where the certified commercial service representative can communicate with the supervised person at all times.

(6) Employed by a research college to apply manure from animal feeding operations that are part of the research activities or experiments of the research college.

b. Certification as a confinement site manure applicator is not required of a person who is either of the following:

(1) A part-time employee or family member of a confinement site manure applicator and is acting under direct instruction and control of a certified confinement site manure applicator who is physically present at the manure application site by being in sight or hearing distance of the supervised person where the certified confinement site manure applicator can physically observe and communicate with the supervised person at all times.

(2) Employed by a research college to apply manure from an animal feeding operation that is part of the research activities or experiments of the research college.

65.19(8) Certified commercial manure services have the following obligations:

a. Maintain the following records of manure disposal operations for a period of three years:

(1) A copy of instructions for manure application provided by the owner of the animal feeding operation.

(2) Dates that manure was applied or sold.

(3) The manure application rate.

(4) Location of fields where manure was applied.

b. Comply with the provisions of the manure management plan (MMP) prepared for the animal feeding operation and the requirements of 65.2(455B) and 65.3(455B). If a manure management plan does not exist, the requirements of 65.2(455B) and 65.3(455B) must still be met.

c. Any tanks or equipment used for hauling manure shall not be used for hauling hazardous or toxic wastes, as defined in 567—Chapter 131, or other wastes detrimental to land application and shall not be used in a manner that would contaminate a potable water supply or endanger the food chain or public health.

d. Pumps and associated piping on manure handling equipment shall be installed with watertight connections to prevent leakage.

e. Any vehicle used by a certified commercial manure service or commercial manure service representative to transport manure on a public road shall display the certification number of the commercial manure service with three-inch or larger letters and numbers on the side of the tank or vehicle. The name and address of the certified commercial manure service representative designated as the manager shall also be prominently displayed on the side of the tank or vehicle.

f. Direct connection shall not be made between a potable water source and the tank or equipment on the vehicle.

65.19(9) Discipline of certified applicators.

a. Disciplinary action may be taken against a certified commercial manure service, a commercial manure service representative or a confinement site manure applicator on any of the following grounds:

(1) Violation of state law or rules applicable to a certified commercial manure service, a commercial manure service representative, or a confinement site manure applicator or the handling or application of manure.

(2) Failure to maintain required records of manure application or other reports required by this rule.

(3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The director shall initiate disciplinary action.

(2) Written notice shall be given to an applicator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The applicator shall be given 20 days to present any relevant facts and indicate the person's position in the matter and to indicate whether informal resolution of the matter may be reached.

(3) An applicator who receives notice shall communicate verbally or in writing or in person with the director, and efforts shall be made to clarify the respective positions of the applicator and director.

(4) Failure to communicate facts and position relevant to the matter by the required date may be considered when determining appropriate disciplinary action.

(5) If agreement as to appropriate disciplinary sanction, if any, can be reached with the applicator and the director, a written stipulation and settlement between the department and the applicator shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the applicator, and the reasons for the particular sanctions imposed.

(6) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to license discipline.

65.19(10) Revocation of certificates.

a. Upon revocation of a certificate, application for commercial manure service representative or confinement site applicator certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

b. Upon revocation of a certificate, application for a commercial manure service certification may be allowed after three years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

65.19(11) Record inspection. The department may inspect, with reasonable notice, the records maintained by a commercial manure service. If the records are for an operation required to maintain records to demonstrate compliance with a manure management plan, the confidentiality provisions of subrule 65.17(14) and Iowa Code section 459.312 shall extend to the records maintained by the commercial manure service.

567—65.20(455B) Manure storage indemnity fund. The manure storage indemnity fund created in Iowa Code chapter 455J will be administered by the department. Moneys in the fund shall be used for the exclusive purpose of administration of the fund and the cleanup of eligible facilities at confinement feeding operation sites.

65.20(1) *Eligible facility site.* The site of a confinement feeding operation which contains one or more animal feeding operation structures is an eligible site for reimbursement of cleanup costs if one of the following conditions exists:

a. A county has acquired title to real estate containing the confinement feeding operation following nonpayment of taxes and the site includes a manure storage structure which contains stored manure or site contamination originating from the confinement feeding operation.

b. A county or the department determines that the confinement feeding operation has caused a clear, present and impending danger to the public health or environment.

65.20(2) *Site cleanup.* Site cleanup includes the removal and land application or disposal of manure from an eligible facility site according to manure management procedures approved by the department. Cleanup may include remediation of documented contamination which originates from the confinement feeding operation. Cleanup may also include demolishing and disposing of animal feeding operation structures if their existence or further use would contribute to further environmental contamination and

their removal is included in a cleanup plan approved by the department. Buildings and equipment must be demolished or disposed of according to rules adopted by the department in 567—Chapter 101 which apply to the disposal of farm buildings or equipment by an individual or business organization.

65.20(3) *Claims against the fund.* Claims for cleanup costs may be made by a county which has acquired real estate containing an eligible facility site pursuant to a tax deed. A county claim shall be signed by the chairperson of the county board of supervisors. Cleanup may be initiated by the department or may be authorized by the department based on a claim by a county.

a. *Advance notice of claim.* Prior to or after acquiring a tax deed to an eligible facility site, a county shall notify the department in writing of the existence of the facility and the title acquisition. The county shall request in this notice that the department evaluate the site to determine whether the department will order or initiate cleanup pursuant to its authority under Iowa Code chapter 455B.

b. *Emergency cleanup condition.* If a county determines that there exists at a confinement feeding operation site a clear, present and impending danger to the public health or environment, the county shall notify the department of the condition. The danger should be documented as to its presence and the necessity to avoid delay due to its increasing threat. If no cleanup action is initiated by the department within 24 hours after being notified of an emergency condition requiring cleanup, the county may provide cleanup and submit a claim against the fund.

65.20(4) *Contents of a claim against the fund.*

a. A county claim against the fund for an eligible site acquired by a county following nonpayment of taxes shall be submitted to the department for approval prior to the cleanup action and shall contain the following information:

(1) A copy of the advance notice of claim as described in paragraph 65.20(3)*"a."*

(2) A copy of a bid by a qualified person, other than a governmental entity, to perform a site cleanup. The bid shall include a summary of the qualifications of the bidder including but not limited to prior experience in removal of hazardous substances or manure, experience in construction of confinement feeding operation facilities or manure storage structures, equipment available for conducting the cleanup, or any other qualifications bearing on the ability of the bidder to remove manure from a site. The bid must reference complying with a cleanup plan. The bid shall include a certification that the bidder has liability insurance in an amount not less than $1 million.

(3) A copy of the tax deed to the real estate containing the eligible facility site.

(4) Name and address, if known, of the former owner(s) of the site. The claim shall also include a description of any efforts to contact the former owner regarding the removal of manure and any other necessary cleanup at the site.

(5) A response to the request in the advance notice described in paragraph 65.20(3)*"a"* that the department will not initiate cleanup action at the site, or that 60 days have passed from the advance notice and request.

(6) A proposed cleanup plan describing all necessary activity including manure to be removed, application rates and sites, any planned remediation of site contamination, and any structure demolition and justification.

b. A county claim against the fund for an emergency cleanup condition may be submitted following the cleanup and shall contain the following information:

(1) A copy of a bid as described in subparagraph 65.20(4)*"a"*(2).

(2) Name and address of the owner(s), or former owner(s), of the site or any other person who may be liable for causing the condition.

(3) Information on the response from the department to the notice given as described in paragraph 65.20(3)*"b,"* or if none was received, documentation of the time notice was given to the department.

(4) A cleanup plan or description of the cleanup activities performed.

65.20(5) *Department processing of claims against the fund.*

a. Processing of claims. The department will process claims in the order they are received.

b. The cleanup plan will be reviewed for acceptability to accomplish necessary actions according to subrule 65.20(2).

c. Review of bid. Upon receipt of a claim, the department will review the bid accompanying the claim. The department may consult with any person in reviewing the bid. Consideration will be given to the experience of the bidder, the bid amount, and the work required to perform the cleanup plan. If the department is satisfied that the bidder is qualified to perform the cleanup and costs are reasonable, the department will provide written approval to the county within 60 days from the date of receipt of the claim.

d. Obtaining a lower bid. If the department determines that it should seek a lower bid to perform the cleanup, it may obtain the names of qualified persons who may be eligible to perform the cleanup. One or more of those persons will be contacted and invited to view the site and submit a bid for the cleanup. If a lower bid is not received, the original bid may be accepted. If a bid is lower than the original bid submitted by the county, the department will notify the county that it should proceed to contract with that bidder to perform the cleanup.

65.20(6) *Certificate of completion.* Upon completion of the cleanup, the county shall submit a certificate of completion to the department. The certificate of completion shall indicate that the manure has been properly land-applied according to the cleanup plan and that any site contamination identified in the approved cleanup plan has been remediated and any approved structure demolition has been performed.

65.20(7) *Payment of claims.* Upon receipt of the certificate of completion, the department shall promptly authorize payment of the claim as previously approved. Payments will be made for claims in the order of receipt of certificates of completion.

65.20(8) *Subrogation.* The fund is subrogated to all county rights regarding any claim submitted or paid as provided in Iowa Code section 455J.5(5).

567—65.21(455B) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted animal feeding operation and its animal feeding operation storage structure is transferred, the person to whom title or legal responsibility is transferred shall be subject to all terms and conditions of the permit and these rules. The person to whom the permit was issued and the person to whom title or legal responsibility is transferred shall notify the department of the transfer of legal responsibility or title of the operation within 30 days of the transfer. Within 30 days of receiving a written request from the department, the person to whom legal responsibility is transferred shall submit to the department all information needed to modify the permit to reflect the transfer of legal responsibility. A person who has been classified as a habitual violator under Iowa Code section 455B.191 shall not acquire legal responsibility or a controlling interest to any additional permitted confinement feeding operations for the period that the person is classified as a habitual violator. A person who has an interest in a confinement feeding operation that is the subject of a pending enforcement action shall not acquire legal responsibility or an interest to any additional permitted confinement feeding operations for the period that the enforcement action is pending.

567—65.22(455B) Validity of rules. If any part of these rules is declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect, and to that end, these rules are declared to be severable.

These rules are intended to implement Iowa Code sections 455B.104, 455B.134(3)*"e,"* 455B.171 to 455B.188, and 455B.191; Iowa Code chapter 459; and 1998 Iowa Acts, chapter 1209, sections 41 and 44 to 47.

567—65.23 to **65.99** Reserved.

DIVISION II
OPEN FEEDLOT OPERATIONS

567—65.100(455B,459,459A) Definitions. In addition to the definitions in Iowa Code sections 455B.101 and 455B.171 and 2005 Iowa Code Supplement section 459A.102, the following definitions shall apply to Division II of this chapter:

"Abandoned" means an open feedlot operation structure that has been razed, removed from the site of an open feedlot operation, filled in with earth, or converted to uses other than an open feedlot operation structure so that it cannot be used as an open feedlot operation structure without significant reconstruction.

"Adjacent." Two or more open feedlot operations are defined as adjacent if both of the following occur:

1. At least one open feedlot operation structure is constructed on or after July 17, 2002.
2. An open feedlot operation structure which is part of one open feedlot operation is separated by less than 1250 feet from an open feedlot operation structure which is part of the other open feedlot operation.

"Alternative technology settled open feedlot effluent control system" or *"AT system"* means use of an open feedlot effluent control technology other than a conventional runoff containment system to control and dispose of settled open feedlot effluent. The department may allow an open feedlot operation covered by the NPDES permit application requirements of 65.102(455B,459A) or 65.103(455B,459A) to use an AT system, provided the open feedlot operation satisfactorily demonstrates the AT system will provide an equivalent level of performance to that achieved by a runoff containment system that is designed and operated as required by statute, 567—subrule 62.4(12) and Division II of this chapter. Demonstration of equivalent performance must include submitting results of computer modeling which compares the predicted performance of the proposed system with that of a conventional runoff containment system over the same period. The specific requirements which must be met for an open feedlot operation to qualify for use of an AT system and the information which must be submitted to the department are outlined in rule 65.110(459A).

Design requirements have been established for two types of AT systems. These are a vegetative infiltration basin (VIB) followed by a vegetative treatment area (VTA) and a stand-alone vegetative treatment area (VTA). If other AT systems are developed that meet the equivalent performance standard established under EPA's CAFO rules, the department will consider their acceptance on a case-by-case basis.

"Animal" means a species classified as cattle, swine, horses, sheep, chickens or turkeys.

"Animal capacity" means the maximum number of animals which the owner or operator will confine in an open feedlot operation at any one time.

"Animal feeding operation" or *"AFO"* means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. An animal feeding operation does not include a livestock market.

Pursuant to federal regulations, a livestock market could satisfy the definitions of an AFO and a CAFO and thus be subject to NPDES permit requirements. In order to implement the federal NPDES permit program, the commission must adopt rules which are no less stringent than federal regulations. Therefore, for the purposes of the NPDES permit program, an AFO can include a livestock market.

"Animal unit" means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor, as follows:

1.	Slaughter and feeder cattle	1.000
2.	Immature dairy cattle	1.000
3.	Mature dairy cattle	1.400
4.	Butcher or breeding swine weighing more than 55 pounds	0.400
5.	Swine weighing 15 pounds or more but not more than 55 pounds	0.100
6.	Sheep or lambs	0.100
7.	Horses	2.000
8.	Turkeys weighing 112 ounces or more	0.018
9.	Turkeys weighing less than 112 ounces	0.0085
10.	Chickens weighing 48 ounces or more	0.010
11.	Chickens weighing less than 48 ounces	0.0025

"Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an open feedlot operation.

"Common management" means significant control by a person of the management of the day-today operations of each of two or more open feedlot operations. "Common management" does not include control over a contract livestock facility by a contractor, as defined in Iowa Code section 202.1.

"Common ownership" means to hold an interest in each of two or more open feedlot operations as any of the following:

1. A sole proprietor.
2. A joint tenant or tenant in common.
3. A holder of a majority equity interest in a business association as defined in Iowa Code section 202B.102, including as a shareholder, partner, member, beneficiary, or other equity interest holder.

An interest in an open feedlot operation under "2" or "3" above is a common ownership interest when it is held directly or indirectly through a spouse or dependent child, or both.

"Concentrated animal feeding operation" or *"CAFO"* means an AFO that is defined as a large CAFO, a medium CAFO, or a designated CAFO.

"Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface tile inlet, drinking water well, designated wetland, lake, or water source. A designated area does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

"Designated CAFO" means an AFO that has been designated as a CAFO pursuant to rule 65.103(455B,459A).

"Discontinued open feedlot operation" means an open feedlot operation in which the open feedlot operation structures have been abandoned or the use of the open feedlot operation structures has been discontinued as evidenced by the removal of all animals, and the owner or operator has no immediate plans to repopulate the structures.

"Formed settled open feedlot effluent basin" means a settled open feedlot effluent basin which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed settled open feedlot effluent basin shall have the structural integrity to withstand expected internal and external load pressures.

"Karst terrain" means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, losing streams, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an open feedlot operation structure and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain. Assistance in identifying karst terrain or potential karst terrain may be obtained by referring to: http://csbweb.igsb.uiowa.edu/imsgate/maps/afo_siting_atlas.asp.

"Large concentrated animal feeding operation" or *"large CAFO."* An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

1. 700 mature dairy cows, whether milked or dry;
2. 1,000 cattle, including but not limited to heifers, steers, bulls, veal calves and cow/calf pairs;
3. 2,500 swine each weighing 55 pounds or more;
4. 10,000 swine each weighing less than 55 pounds;
5. 500 horses;
6. 10,000 sheep or lambs;
7. 55,000 turkeys;
8. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

9. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

10. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

11. 1,000 animal units, where more than one category of animals is maintained using the same type of operation.

"Manure" means animal excreta or other commonly associated wastes of animals including, but not limited to, bedding, compost, litter, feed losses, raw materials or other materials commingled with manure or set aside for disposal.

"Medium concentrated animal feeding operation" or *"medium CAFO."* The term medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed in paragraph *"a"* of this definition and which has been defined or designated as a CAFO. An AFO is defined as a medium CAFO if:

a. The type and number of animals that it stables or confines fall within any of the following ranges:

(1) 200 to 699 mature dairy cows, whether milked or dry;

(2) 300 to 999 cattle, including but not limited to heifers, steers, bulls, veal calves and cow/calf pairs;

(3) 750 to 2,499 swine each weighing 55 pounds or more;

(4) 3,000 to 9,999 swine each weighing less than 55 pounds;

(5) 150 to 499 horses;

(6) 3,000 to 9,999 sheep or lambs;

(7) 16,500 to 54,999 turkeys;

(8) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

(9) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(10) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

(11) 300 to 999 animal units, where more than one category of animals is maintained using the same type of operation; and

b. Either one of the following conditions is met:

(1) Manure or process wastewater is discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or

(2) Manure or process wastewater is discharged directly into waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with animals confined in the operation.

"NPDES permit" means a written permit of the department pursuant to the National Pollutant Discharge Elimination System (NPDES) program, to authorize and regulate the operation of a CAFO.

"Nutrient management plan" or *"NMP"* means a plan which provides for the management of manure, process wastewater, settled open feedlot effluent, settleable solids, open feedlot effluent, including the application of effluent, as provided in 65.112(459A).

"Open feedlot" means a lot, yard, corral, building, or other area used to house animals in conjunction with an open feedlot operation.

"Open feedlot effluent" means a combination of manure, precipitation-induced runoff, or other runoff from an open feedlot before its settleable solids have been removed.

"Open feedlot operation" means an unroofed or partially roofed animal feeding operation if crop, vegetation, or forage growth or residue is not maintained as part of the animal feeding operation during the period that animals are confined in the animal feeding operation.

2005 Iowa Code Supplement section 459A.103 provides that two or more open feedlot operations under common ownership or management are deemed to be a single open feedlot operation if they are adjacent or utilize a common area or system for open feedlot effluent disposal. To determine if two or more open feedlot operations are deemed to be one open feedlot operation, the first test is whether the open feedlot operations are under common ownership or management. If they are not under common ownership or management, they are not one open feedlot operation. The second test is whether the two open feedlot operations are adjacent or utilize a common area or system for open feedlot effluent disposal.

If the two operations are not adjacent and do not use a common area or system for open feedlot effluent disposal, they are not one open feedlot operation.

"Open feedlot operation structure" means an open feedlot, settled open feedlot effluent basin, a solids settling facility, or an AT system. "Open feedlot operation structure" does not include a manure storage structure as defined in Iowa Code section 459.102.

"Owner" means the person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operation structures. "Owner" does not include a person who has a lease to use the land where the animal feeding operation is located or to use the animal feeding operation structures.

"Permanent vegetation cover" means land which is maintained in perennial vegetation cover consisting of grasses, legumes, or both, and includes, but is not limited to, pastures, grasslands or forages.

"Process wastewater" means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

"Production area" means that part of an AFO that includes the area in which animals are confined, the manure storage area, the raw materials storage area, and the waste containment areas. The area in which animals are confined includes, but is not limited to, open lots, housed lots, feedlots, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, solids settling facilities, settled open feedlot effluent basins, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any area used in the storage, handling, treatment, or disposal of mortalities.

"Professional engineer" means a person engaged in the practice of engineering as defined in Iowa Code section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to Iowa Code section 542B.17.

"Release" means an actual, imminent or probable discharge of process wastewater, manure, open feedlot effluent, settled open feedlot effluent, or settleable solids from an open feedlot operation structure to surface water, groundwater, or an actual, imminent or probable discharge directly to a drainage tile line or intake resulting from storing, handling, transporting or land-applying process wastewater, manure, open feedlot effluent, settled open feedlot effluent or settleable solids.

"Settleable solids" means that portion of open feedlot effluent that meets all the following requirements:

1. The solids do not flow perceptibly under pressure.
2. The solids are not capable of being transported through a mechanical pumping device designed to move a liquid.
3. The constituent molecules of the solids do not flow freely among themselves but do show the tendency to separate under stress.

"Settled open feedlot effluent" means a combination of manure, precipitation-induced runoff, or other runoff originating from an open feedlot after its settleable solids have been removed.

"Settled open feedlot effluent basin" or *"runoff control basin"* means a covered or uncovered impoundment which is part of an open feedlot operation, if the primary function of the impoundment is to collect and store settled open feedlot effluent.

"Shallow well" means a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Solids settling facility" means a basin, terrace, diversion, or other structure or solids removal method which is part of an open feedlot operation and which is designed and operated to remove settleable solids from open feedlot effluent. A "solids settling facility" does not include a basin, terrace, diversion, or other structure or solids removal method which retains the liquid portion of open feedlot effluent for more than seven consecutive days following a precipitation event.

"Stockpile" means any accumulation of manure, scraped solids, settleable solids or combination of manure and solids located outside of the open feedlot, where the scraped manure or solids are stored for less than six months.

"Unformed settled open feedlot effluent basin" means a settled open feedlot effluent basin, other than a formed settled open feedlot effluent basin.

"Vegetative infiltration basin" or *"VIB"* means an open feedlot operation structure in which settled open feedlot effluent is discharged into a relatively flat basin area which is bermed to prevent entry or discharge of surface water flows and is planted to permanent vegetation. An extensive tile system installed at a depth of three to five feet is used to collect infiltrated settled open feedlot effluent from the VIB and discharge it into a VTA for further treatment. As opposed to wetlands, which are designed to maintain a permanent water level, a VIB is designed to maximize water infiltration into the soil and thus normally will have standing water for only short periods of time. Removal of settleable solids is required prior to discharge of open feedlot effluent into the VIB. Soil suitability is essential to ensure adequate filtration and treatment of pollutants. Periodic harvesting of vegetation is required.

"Vegetative treatment area" or *"VTA"* means an open feedlot operation structure in which settled open feedlot effluent is discharged into areas which are level in one dimension and have a slight slope (less than 5 percent) in the other dimension and are planted to relatively dense permanent vegetation. Settled open feedlot effluent must be discharged evenly across the top width of the VTA and allowed to slowly flow downslope through the VTA. Level spreaders or other practices may be required to maintain even flow throughout the length of the VTA. Management to maintain a dense vegetation cover is required, as is periodic harvesting of vegetation.

"Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"Waters of the United States" means the same as defined in 40 CFR 122.2 as that section existed on July 1, 2005.

567—65.101(459A) Minimum open feedlot effluent control requirements and reporting of releases. An open feedlot operation shall provide for the management of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent by using an open feedlot control method as provided in subrules 65.101(1) to 65.101(8). A release shall be reported to the department as provided in subrule 65.101(9).

65.101(1) All settleable solids from open feedlot effluent shall be removed prior to discharge into a water of the state.

a. The settleable solids shall be removed by use of a solids settling facility. The construction of a solids settling facility is not required where existing site conditions provide for removal of settleable solids prior to discharge into a water of the state.

b. The removal of settleable solids shall be deemed to have occurred when the velocity of flow of the open feedlot effluent has been reduced to less than 0.5 feet per second for a minimum of five minutes. A solids settling facility shall have sufficient capacity to store settleable solids between periods of land application and to provide required flow-velocity reduction for open feedlot effluent flow volumes resulting from a precipitation event of less intensity than a ten-year, one-hour frequency event. A solids settling facility which receives open feedlot effluent shall provide a minimum of one square foot of surface area for each eight cubic feet of open feedlot effluent per hour resulting from a ten-year, one-hour frequency precipitation event.

65.101(2) This subrule shall apply to an open feedlot operation which has obtained an NPDES permit pursuant to 65.102(455B,459A) or 65.103(455B,459A).

a. An open feedlot operation may discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent into any waters of the United States due to a precipitation event, if any of the following apply:

(1) For an open feedlot operation that houses cattle, other than veal calves, the operation is designed, constructed, operated, and maintained to comply with the requirements of 567—subrule 62.4(12) and not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event into any waters of the United States.

(2) For an open feedlot operation that houses veal calves, swine, chickens, or turkeys, the operation is designed, constructed, operated, and maintained not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 100-year, 24-hour precipitation event into any waters of the United States.

b. If the open feedlot operation is designed, constructed, and operated in accordance with the requirements of 567—subrule 62.4(12) and in accordance with any of the manure control alternatives listed in Appendix A of these rules or the AT system requirements in rule 65.110(459A), the operation shall be considered to be in compliance with this rule, unless a discharge from the operation causes a violation of state water quality standards. If water quality standards violations occur, the department may impose additional open feedlot effluent control requirements upon the operation, as specified in subrule 65.101(3).

65.101(3) An open feedlot operation which has an animal unit capacity of 1,000 animal units or more, or an open feedlot operation which is a large CAFO, or a medium CAFO as defined in rule 65.100(455B,459,459A) or a designated CAFO pursuant to rule 65.103(455B,459A) shall not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent from an open feedlot operation structure or production area into any waters of the United States, unless the discharge is pursuant to an NPDES permit. The control of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent originating from the open feedlot operation may be accomplished by the use of a solids settling facility, settled open feedlot effluent basin, AT system, or any other open feedlot effluent control structure or practice approved by the department. The department may require the diversion of surface drainage prior to contact with an open feedlot operation structure. Settleable solids shall be settled from open feedlot effluent before the effluent enters a settled open feedlot effluent basin or AT system.

65.101(4) Alternative control practices. If, because of topography or other factors related to the site of an open feedlot operation, it is economically or physically impractical to comply with open feedlot effluent control requirements using an open feedlot control method in subrule 65.101(2), the department shall allow an open feedlot operation covered by the NPDES permit application requirements of 65.102(455B,459A) or 65.103(455B,459A) to use other open feedlot effluent control practices, provided the open feedlot operation satisfactorily demonstrates by appropriate methods that those practices will provide an equivalent level of open feedlot effluent control that would be achieved by using an open feedlot control method as provided in 65.101(2).

65.101(5) No direct discharge of open feedlot effluent shall be allowed from an open feedlot operation into a publicly owned lake, a known sinkhole, or an agricultural drainage well.

65.101(6) Land application.

a. *General requirements.* Open feedlot effluent shall be land-applied in a manner which will not cause pollution of surface water or groundwater. Application in accordance with the provisions of state law and the rules in this chapter shall be deemed as compliance with this requirement.

b. *Designated areas.* A person shall not apply manure on land within 200 feet from a designated area or, in the case of a high quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application.

c. *CAFOs.* The discharge of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent to waters of the United States from a CAFO as a result of the application of that manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements, except where the discharge is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For the purpose of this paragraph, where the manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent as specified in 65.112(8), a precipitation-related discharge of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent from land areas under the control of a CAFO is an agricultural storm water discharge.

65.101(7) The owner of an open feedlot operation who discontinues the use of the operation shall remove and land-apply in accordance with state law all manure, process wastewater and open feedlot effluent from the open feedlot operation structures as soon as practical but not later than six months following the date the open feedlot operation is discontinued. The owner of a CAFO shall maintain compliance with all requirements in the CAFO's NPDES permit until all manure, process wastewater and open feedlot effluent has been removed and land-applied pursuant to the CAFO's NMP.

65.101(8) Stockpiling of scraped manure and settleable solids. A CAFO must manage stockpiles as required by 65.101(2) or 65.101(3). Stockpiles of manure scraped from open feedlot operations and stockpiles of settleable solids shall comply with the following requirements.

a. Stockpiles must be land-applied in accordance with 65.101(6) as soon as possible but not later than six months after they are established.

b. Stockpiles shall not be located within 200 feet from a designated area or, in the case of a high quality water resource, within 800 feet, and areas of concentrated flow located downslope of and within 200 feet of the stockpile shall be planted to permanent vegetation cover, including filter strips and riparian forest buffers.

c. Stockpiles shall not be located in areas where water ponds or has concentrated flow.

d. Stockpiles shall not be located within 200 feet of a drainage tile line intake or known sinkhole unless the stockpile is located so that any runoff from the stockpile will not reach the intake or sinkhole.

65.101(9) A release, as defined in rule 65.100(455B,459,459A), shall be reported to the department as provided in this subrule. This subrule does not apply to land application of manure, process wastewater, open feedlot effluent, settled open feedlot effluent or settleable solids in compliance with these rules, or to precipitation- or snowmelt-induced runoff from open feedlots in compliance with the minimum control requirements set forth in this rule.

a. *Notification.* A person storing, handling, transporting, or land-applying manure, process wastewater, open feedlot effluent, settled open feedlot effluent or settleable solids from an open feedlot operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the department at (515)281-8694. The local police department or the office of the sheriff of the affected county shall also be contacted within the same time period if the release involves a public roadway and public safety could be threatened. Reports made pursuant to this rule shall be confirmed in writing as provided in 65.101(9)*"c."*

b. *Verbal report.* The verbal report of such a release should provide information on as many items listed in 65.101(9)*"c"* as available information will allow.

c. *Written report.* The written report of a release shall be submitted at the request of the department within 30 days after the verbal report of the release and contain at a minimum the following information:

(1) The approximate location of the alleged release (including at a minimum the quarter-quarter section, township and county in which the release occurred or was discovered).

(2) The time and date of onset of the alleged release, if known, and the time and date of the discovery of the alleged release.

(3) The time and date of the verbal report to the department of the release.

(4) The name, mailing address and telephone number of the person reporting the release.

(5) The name, mailing address and telephone number of any other person with knowledge of the event who can be contacted for further information.

(6) The source of the manure, process wastewater, open feedlot effluent, settled open feedlot effluent or settleable solids allegedly released (e.g., settled open feedlot effluent basin).

(7) The estimated or known volume of manure, process wastewater, open feedlot effluent, settled open feedlot effluent, or settleable solids allegedly released.

(8) The weather conditions at the time of the onset or discovery of the release.

(9) If known, the circumstances under which the alleged release occurred or exists (e.g., overflow, storage structure breach, equipment malfunction or breakdown, land runoff).

(10) The approximate location of the nearest stream or other water body which is or could be impacted by the alleged release, and the approximate location to the alleged release of any known tile intakes or tile lines which could be a direct conveyance to a surface water or groundwater.

(11) A description of any containment or remedial measures taken to minimize the impact of the release.

(12) Any information that may assist the department in evaluating the release.

d. *Reporting of subsequent findings.* All subsequent findings and laboratory results should be reported and submitted in writing to the department as soon as they become available.

e. *Waiver of notification requirement.* A waiver from the notification requirement of paragraph *"a"* of this subrule may be granted by the department for a release to a specific drainage tile line or intake if sufficient information is provided to demonstrate that the drainage tile line or intake will not result in a discharge to a water of the state.

567—65.102(455B,459A) NPDES permits required for CAFOs. Concentrated animal feeding operations (CAFOs) are point sources that require NPDES permits.

65.102(1) *Duty to apply.* Each CAFO owner or operator must apply for an NPDES permit, except as provided in subrule 65.102(2). The owner or operator of a CAFO that includes an open feedlot must apply for an individual NPDES permit. The application procedures are prescribed in rule 65.104(455B,459A).

65.102(2) *Exception.* An open feedlot operation shall not be required to obtain an NPDES permit if the operation does not discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent into any waters of the United States.

567—65.103(455B,459A) Departmental evaluation; CAFO designation; remedial actions.

65.103(1) The department may evaluate any animal feeding operation that is not defined as a large or medium CAFO, and designate it as a CAFO if, after an on-site inspection, it is determined to be a significant contributor of manure or process wastewater to waters of the United States. In making this determination, the department shall consider the following factors:

a. The size of the operation and the amount of manure or process wastewater reaching waters of the United States;

b. The location of the operation relative to waters of the United States;

c. The means of conveyance of manure or process wastewater to waters of the United States;

d. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure or process wastewater into waters of the United States; and

e. Other relevant factors.

65.103(2) No animal feeding operation with an animal capacity less than that specified for a medium CAFO shall be designated as a CAFO unless manure or process wastewater from the operation is discharged into a water of the United States:

a. Through a man-made ditch, flushing system, or other similar man-made device; or

b. Which originates outside of and passes over, across or through the facility or otherwise comes into direct contact with animals confined in the operation.

65.103(3) The owner or operator of a designated CAFO shall apply for an NPDES permit no later than 90 days after receiving written notice of the designation.

65.103(4) If departmental evaluation determines that any of the conditions listed in paragraph 65.103(4)*"a," "b,"* or *"c"* exist, the open feedlot operation shall institute necessary remedial actions within a time specified by the department to eliminate the conditions warranting the determination, if the operation receives a written notification from the department of the need to correct the conditions.

a. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is being discharged into a water of the state and the operation is not providing the applicable minimum level of manure control as specified in rule 65.101(459A);

b. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is causing or may reasonably be expected to cause pollution of a water of the state; or

c. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is causing or may reasonably be expected to cause a violation of state water quality standards.

[1]**65.103(5)** The department may evaluate any proposed open feedlot operation or proposed expansion of an open feedlot operation that requires a construction permit with respect to its potential adverse impacts on natural resources or the environment. For the purpose of this subrule, open feedlot effluent includes manure, process wastewater, settled open feedlot effluent and settleable solids.

a. In conducting the evaluation, the department shall consider the following factors:

(1) The likelihood open feedlot effluent will be applied to frozen or snow-covered cropland.

(2) The proximity of the open feedlot operation structures or open feedlot effluent application areas to sensitive areas, including but not limited to publicly owned land, designated areas, trout streams and karst terrain.

(3) Topography, slope, vegetation, potential means or routes of conveyance of open feedlot effluent spilled or land-applied. This factor includes but is not limited to whether the open feedlot effluent application areas involve cropland with predominant slopes greater than 9 percent without a conservation plan approved by the local soil and water conservation district or its equivalent and whether open feedlot effluent for land application is hauled or otherwise transported more than five miles.

(4) Whether the operation or open feedlot effluent application area is or will be located in a two-year capture zone for a public water supply.

b. In addition to the requirements in rules 65.105(459A), 65.109(459A) and 65.112(459A), the department may deny a construction permit, disapprove a nutrient management plan or prohibit construction of the proposed operation at the proposed location if the director determines from the evaluation conducted pursuant to this subrule that the operation would reasonably be expected to result in any of the following impacts:

(1) Open feedlot effluent from the operation will cause pollution of a water of the state.

(2) Open feedlot effluent from the operation will cause a violation of state water quality standards.

(3) An adverse effect on natural resources or the environment will occur in a specific area due to the current concentration of animal feeding operations or the associated open feedlot effluent application areas.

c. The department also may establish permit conditions or require amendments to the nutrient management plan in addition to the minimum requirements established for such operations, on the location of structures or open feedlot effluent application, or other operational conditions necessary to avoid or minimize the adverse impacts.

d. A construction permit denial or condition, a nutrient management plan disapproval or required amendment, or a prohibition of construction pursuant to this subrule may be appealed according to the contested case procedures set forth in 561—Chapter 7.

[1] Objection to 65.103(5) filed by the Administrative Rules Review Committee October 10, 2006. See text of Objection at end of Chapter 65.

567—65.104(455B,459A) NPDES permits.

65.104(1) *Existing animal feeding operations holding an NPDES permit.* Animal feeding operations which hold a valid NPDES permit issued prior to September 14, 2005, are not required to reapply for an NPDES permit. However, the operations are required to apply for permit renewal in accordance with subrule 65.104(10).

65.104(2) *Existing animal feeding operations not holding an NPDES permit.* Animal feeding operations in existence prior to April 14, 2003, which were defined as CAFOs under rules that were in effect prior to April 14, 2003, but which have not obtained a permit, should have applied for an NPDES permit by April 14, 2003. Animal feeding operations in existence on April 14, 2003, which were not defined as CAFOs under rules that were in effect prior to April 14, 2003, shall apply for an NPDES permit no later than July 31, 2007.

65.104(3) *Expansion of existing animal feeding operations.* A person intending to expand an existing animal feeding operation which, upon completion of the expansion, will be defined as a CAFO shall apply for an NPDES permit at least 90 days prior to the scheduled expansion. Operation of the expanded portion of the facility shall not begin until an NPDES permit has been obtained.

65.104(4) *New animal feeding operations.* A person intending to begin a new animal feeding operation which, upon completion, will be defined as a CAFO shall apply for an NPDES permit at least 180 days prior to the date operation of the new animal feeding facility is scheduled. Operation of the new facility shall not begin until an NPDES permit has been obtained.

65.104(5) *Permits required as a result of departmental designation.* An animal feeding operation which is required to apply for an NPDES permit as a result of departmental designation (in accordance with the provisions of 65.103(455B,459A)) shall apply for an NPDES permit within 90 days of receiving written notification of the need to obtain a permit. Once application has been made, the animal feeding operation is authorized to continue to operate without a permit until the application has either been approved or disapproved by the department, provided that the owner or operator has submitted all requested information and promptly taken all steps necessary to obtain coverage.

65.104(6) *Voluntary permit applications.* Applications for NPDES permits received from animal feeding operations which are not defined as CAFOs will be acknowledged and returned to the applicant. NPDES permits will not be issued for facilities which are not defined or designated as CAFOs.

65.104(7) *Application forms.* An application for an NPDES permit shall be made on a form provided by the department. The application shall be complete and shall contain information required by the department. Applications submitted after September 30, 2006, shall include a nutrient management plan as required in rule 65.112(459A). The application shall be signed by the person who is legally responsible for the animal feeding operation and its associated manure or process wastewater control system.

65.104(8) *Compliance schedule.* When necessary to comply with a standard which must be met at a future date, an NPDES permit shall include a schedule for modification of the permitted facility to meet the standard. The schedule shall not relieve the permittee of the duty to obtain a construction permit pursuant to rule 65.105(459A).

65.104(9) *Permit conditions.* NPDES permits shall contain conditions required by 40 CFR Section 122.41 and conditions considered necessary by the department to ensure compliance with all applicable rules of the department, to ensure that the production area and land application areas are operated and maintained as required by Iowa law, to protect the public health and beneficial uses of waters of the United States, and to prevent water pollution from manure storage or application operations. Any more stringent conditions of 2005 Iowa Code Supplement chapter 459A, 567—subrule 62.4(12), and this chapter that apply to animal feeding operations shall govern. For CAFOs that maintain cattle, swine, or poultry, the following conditions shall be included:

a. *Nutrient management plan.* Open feedlot CAFOs shall comply with the requirements of 65.112(459A) and any additional nutrient management plan requirements for CAFOs in these rules by December 31, 2006. CAFOs that seek to obtain coverage under an NPDES permit issued after December 31, 2006, shall have a nutrient management plan developed and implemented upon the date of permit coverage.

b. *Inspections and record keeping.*

(1) Visual inspections. Routine visual inspections of the CAFO production area must be conducted. At a minimum the following must be visually inspected:

1. Weekly inspections of all storm water diversion, runoff diversion structures, and devices channelling contaminated storm water to the open feedlot structure.

2. Daily inspection of water lines, including drinking water or cooling water lines.

(2) Corrective actions. Any deficiencies found as a result of the inspections required in 65.104(9)*"b"*(1) or as a result of the liquid level reporting required in 65.104(9)*"e"* must be corrected as soon as possible.

(3) The following records must be maintained on site for a period of five years from the date they are created and must be made available to the department upon request:

1. Records documenting the inspections required in 65.104(9)*"b"*(1).

2. Records of weekly liquid level observations as required in 65.104(9)*"e."*

3. Records documenting any actions taken to correct deficiencies as required in 65.104(9)*"b"*(2).

c. Large CAFOs—transfer of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent. Prior to transferring manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent to other persons, a large CAFO must provide the recipient of the manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent with the most current nutrient analysis. A large CAFO must retain for five years records of the date, recipient name and address, nutrient analysis and approximate amount of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent transferred to another person.

d. Minimum monitoring requirements for AT systems. During the first two years of operation of an AT system, the following minimum monitoring will be required:

(1) Discharge monitoring. An effluent collection point must be established at the outlet of the AT system, and the flow volume recorded and an effluent sample collected on each day a discharge from the AT system occurs. Discharge samples must be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

(2) Discharge monitoring—tile lines. If the AT system includes a tile system installed to enhance infiltration within the VTA in accordance with 65.110(6)*"h"* or 65.110(7)*"h,"* water samples shall be collected from a sampling point located downgradient of the VTA on each individual tile line or combination of tile lines on the following schedule:

1. Quarterly sampling. One sample shall be taken from each sampling point once each quarter (January - March, April - June, July - September, October - December), and the level of flow in the tile system recorded at the time of sampling. The sample shall be collected at least ten days after a rainfall event of one inch or greater; and samples must be taken at least two, but not more than four, months apart. If there is no discharge from the tile line at a time that meets these requirements, documentation on appropriate department forms can be substituted for the sample and analysis. Collected samples shall be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

2. Event sampling. Each year, two rainfall event related tile flow samples shall be collected from each sampling point. For each sampling event, one sample shall be taken from each sampling point three to five days following a rainfall event of one inch or greater, and the level of flow in the tile system recorded at the time of sampling. Collected samples shall be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

(3) Groundwater monitoring. A minimum of two groundwater monitoring wells or piezometers (one upgradient and one downgradient) must be established at each AT system. Additional wells or piezometers may be required if the department determines they are necessary to adequately assess the impacts the AT system is having on groundwater. Samples must be collected from these wells quarterly and analyzed for: NH4 N, NO3 N, and chloride.

(4) Soil sampling.

1. Initial and permit renewal sampling. Soil sampling shall be conducted prior to initial discharge of open feedlot effluent into the AT system and repeated prior to renewal of the NPDES permit, as outlined below:

- VTA. A minimum of two sampling sites shall be established within each VTA cell, one located where runoff enters the VTA and one where runoff is discharged from the VTA. Soil samples shall be taken from these sites to a depth of 4 feet, with separate samples taken to represent the 0 to 6-inch depth, the 6- to 12-inch depth, and in one-foot increments thereafter. All samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

If the length of effluent flow through the VTA exceeds 400 feet, an additional soil sample representing the 0 to 6-inch depth should be taken for each additional 200 feet of VTA length. Samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

- VIB. One sampling site shall be established where open feedlot effluent enters the VIB. Soil samples at this site shall be taken to a depth of 4 feet, with separate samples taken to represent the 0 to 6-inch depth, the 6- to 12-inch depth, and in one-foot increments thereafter. These samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

An additional sampling site shall be established where open feedlot effluent is discharged from the VIB through the tile system. Soil samples shall be taken at this site to represent the 0 to 6-inch depth, and analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

2. Annual sampling. One sampling site shall be established in each cell of a VTA and VIB in an area which is expected to receive the greatest amount of open feedlot effluent. Soil samples shall be taken from each site prior to initiating discharge of open feedlot effluent into the VTA or VIB and shall be repeated annually. Each sample shall represent a composite of 10 to 12 individual samples taken to a 6-inch depth, and analyzed for P using either the Olsen or Mehlich-3 method and for pH.

Monitoring requirements for an AT system following the initial two-year operation period will be determined at the time the NPDES permit for the operation is due for renewal.

e. Quarterly reporting requirements for CAFOs with outside liquid impoundments. A permittee with outside liquid impoundments must submit quarterly reports by April 10, July 10, October 10, and January 10, following the respective calendar quarters, documenting daily precipitation, weekly impoundment liquid levels, volume of liquid removed from the impoundments, and the date, time, duration, and estimated volume of any overflow. Liquid levels must be obtained by observing a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour precipitation event or the 100-year, 24-hour precipitation event as applicable pursuant to 65.101(2)*"a."*

f. Annual reporting requirements for all CAFOs with systems other than AT systems. All permittees must submit an annual report to the department by January 10 of the following year. The annual report must include:

(1) The number and type of animals in the open feedlot operation;

(2) Estimated amount of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent generated by the CAFO in the previous 12 months (tons/gallons);

(3) Estimated amount of total manure transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

(4) Total number of acres for land application covered by the nutrient management plan and the total number of acres under control of the CAFO that were used for land application of manure in the previous 12 months;

(5) Summary of all manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

(6) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

g. Quarterly reporting requirements for CAFOs with AT systems. A permittee with an AT system must submit quarterly reports by April 10, July 10, October 10, and January 10, following the respective calendar quarters. The quarterly reports shall provide all of the following information:

(1) Daily precipitation.

(2) Dates on which manure, process wastewater, settled open feedlot effluent, open feedlot effluent, or settleable solids were removed from the production area and estimated amounts of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent removed (tons/gallons).

(3) Dates on which discharges from the production area or the AT system occurred and the estimated duration and volume of discharge on each discharge date.

(4) Results of laboratory analyses of discharge samples for each date a discharge from the production area or the AT system occurred. If the results of laboratory analyses are not available by the due date of the quarterly report, the results shall be provided with the following quarter's report.

(5) Results of laboratory analyses of samples taken from the groundwater monitoring wells or piezometers. If the results of laboratory analyses are not available by the due date of the quarterly report, the results shall be provided with the following quarter's report.

h. Annual reporting requirements for CAFOs with AT systems. A permittee shall submit an annual report by January 10 of the following year. The annual report must include all of the following:

(1) The number and type of animals in the open feedlot operation.

(2) Estimated amount of total manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent generated by the CAFO in the previous 12 months (tons/gallons).

(3) Estimated amount of total manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent transferred to other persons by the CAFO in the previous 12 months (tons/gallons).

(4) Total number of acres for land application covered by the nutrient management plan and the total number of acres under control of the CAFO that were used for land application of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent in the previous 12 months.

(5) Summary of all manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent discharges from the production area or AT system that have occurred in the previous 12 months, including date, time, and approximate volume.

(6) Harvest dates and estimated amounts of forage removed from the AT system during the previous 12 months.

(7) Results of soil and groundwater sampling within the AT system during the previous 12 months.

(8) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

65.104(10) *Permit renewal.*

a. General requirements. An NPDES permit may be issued for any period of time not to exceed five years. An application for renewal of an NPDES permit must be submitted to the department at least 180 days prior to the date the permit expires. Each permit to be renewed shall be subject to the rules of the department in effect at the time of renewal. A permitted animal feeding operation which ceases to be a CAFO will be exempted from the need to retain an NPDES permit if the permittee can demonstrate to the satisfaction of the department that there is no remaining potential for a discharge of manure that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

b. Permits involving use of AT systems.

(1) During the first two years of operation of an AT system, a permittee will be issued a two-year NPDES permit. Renewal of this permit is contingent upon proper operation and maintenance of the AT system, submittal of all required records and reports, and demonstration that the AT system is providing an equivalent level of performance to that achieved by a containment system that is designed and operated as required by statute, 567—subrule 62.4(12) and Division II of this chapter.

(2) If departmental review of an AT system indicates the system is not meeting the equivalent performance standard, the permittee may either be required to make needed system modifications to enable compliance with this standard or be required to install a conventional runoff containment system.

Open feedlot operations found to be in compliance with the equivalent performance standard will be issued a five-year NPDES permit which allows continued use of the AT system.

65.104(11) *Permit modification, suspension or revocation.* The department may modify, suspend, refuse to renew or revoke in whole or part any NPDES permit for cause. Any more stringent requirement pursuant to 40 CFR Section 122.62, 122.63 or 122.64 shall control. Cause for modification, suspension or revocation of a permit may include the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

d. Failure to retain, make available, or submit the records and information that the department requires in order to ensure compliance with the operation and discharge conditions of the permit.

e. A determination by the department that the continued operation of a CAFO constitutes a clear, present and impending danger to public health or the environment.

567—65.105(459A) Construction permits.

65.105(1) *Open feedlot operations required to obtain a construction permit.* An open feedlot operation must obtain a construction permit prior to any of the following:

a. Constructing or expanding a settled open feedlot effluent basin or AT system or installing a settled open feedlot effluent transfer piping system if the open feedlot operation is required to be issued an NPDES permit.

b. Increasing the animal unit capacity of the open feedlot operation to more than the animal unit capacity approved by the department in a previous construction permit.

c. Increasing the volume of settled open feedlot effluent, settleable solids or open feedlot effluent stored at the open feedlot operation to more than the volume approved by the department in a previous construction permit.

d. Repopulating the open feedlot operation if it was discontinued for 24 months or more and the animal unit capacity will be 1,000 animal units or more.

65.105(2) *When a construction permit is not required.*

a. *Research colleges.* A construction permit is not required for construction of a settled open feedlot effluent basin or AT system if the basin or system is part of an open feedlot operation which is owned by a research college conducting research activities as provided in 2005 Iowa Code Supplement section 459A.105.

b. *Solids settling facilities.* A construction permit is not required for construction of a solids settling facility.

65.105(3) *Applications that cannot be approved.* The department shall not approve an application for a construction permit unless the applicant submits all of the following:

a. For an open feedlot operation submitting an application for a construction permit on or after September 30, 2006, a nutrient management plan as provided in rule 65.112(459A).

b. An engineering report, construction plans, and specifications prepared by a professional engineer or the Natural Resources Conservation Service of the United States Department of Agriculture certifying that the construction of the settled open feedlot effluent basin or AT system complies with the construction design standards required in Division II of chapter 65.

65.105(4) *Plan review criteria; time for approval or disapproval.*

a. *Plan review criteria.* Review of plans and specifications shall be conducted by the department to determine the potential of the settled open feedlot effluent basin or AT system to achieve the level of control being required of the open feedlot operation. Applicable criteria contained in federal law, state law, these rules, Natural Resources Conservation Service design standards and specifications, unless inconsistent with federal or state law or these rules, and United States Department of Commerce precipitation data will be used in the review. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

b. *Time for approval or disapproval.* The department shall approve or disapprove an application for a construction permit within 60 days after receiving the permit application. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance.

65.105(5) *Expiration of construction permits.* The construction permit shall expire if construction, as defined in rule 65.106(459A), is not begun within one year and completed within three years of the date of issuance. A construction permit issued prior to September 14, 2005, shall expire if construction, as defined in rule 65.106(459A), is not begun within one year of the date of issuance and shall expire on September 15, 2012, if construction is not completed by September 14, 2012. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director.

65.105(6) *Revocation of construction permits.* The department may suspend or revoke a construction permit, modify the terms or conditions of a construction permit, or refuse to renew a permit expiring according to subrule 65.105(5) if it determines that the operation of the open feedlot operation constitutes a clear, present and impending danger to public health or the environment.

65.105(7) *Permit prior to construction.* An applicant for a construction permit shall notify the department prior to the start of construction for any open feedlot operation structure not required to be covered by a construction permit. The applicant shall not begin construction of a settled open feedlot effluent basin or AT system, or begin installation of a settled open feedlot effluent transfer piping system until the person has been granted a permit for the construction by the department.

567—65.106(459A) Construction. For purposes of these rules:

65.106(1) Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

a. Excavation commences for a proposed open feedlot operation structure or proposed expansion of an existing open feedlot operation structure.

b. Installation of forms for concrete for a proposed open feedlot operation structure or the proposed expansion of an existing open feedlot operation structure.

c. Installation of piping for movement of settled open feedlot effluent or open feedlot effluent within or between open feedlot operation structures as proposed or proposed to be expanded.

65.106(2) Construction does not begin upon occurrence of any of the following:

a. Removal of trees, brush, or other vegetative growth.

b. Construction of driveways or roads.

c. General earth moving for leveling or compacting at the site.

d. Installation of temporary utility services.

567—65.107(459A) Construction permit application. An open feedlot operation required to obtain a construction permit in accordance with the provisions of 65.105(1) shall apply for a construction permit at least 90 days before the date that construction, installation, or modification is scheduled to start.

65.107(1) Conceptual design. Prior to submitting an application for a construction permit, the applicant may submit a conceptual design and site investigation report to the department for review and comment.

65.107(2) Application for a construction permit for an open feedlot shall be made on a form provided by the department. The application shall include all of the information necessary to enable the department

to determine the potential of the proposed settled open feedlot effluent basin or AT system to achieve the level of control required of the open feedlot. A construction permit application shall include the following:

a. The name of the owner of the open feedlot operation and the name of the open feedlot operation, including the owner's mailing address and telephone number.

b. The name of the contact person for the open feedlot operation, including the person's mailing address and telephone number.

c. The location of the open feedlot operation.

d. A statement providing that the application is for any of the following:

(1) The construction or expansion of a settled open feedlot effluent basin or AT system for an existing open feedlot operation which is not expanding;

(2) The construction or expansion of a settled open feedlot effluent basin or AT system for an existing open feedlot operation which is expanding;

(3) The construction of a settled open feedlot effluent basin or AT system for a proposed new open feedlot operation.

e. The animal unit capacity for each animal species in the open feedlot operation before and after the proposed construction.

f. An engineering report, construction plans and specifications prepared by a professional engineer or by Natural Resources Conservation Service personnel for the settled open feedlot effluent basin or AT system.

g. A report on the soil and hydrogeologic information for the site, as described in subrules 65.109(2) and 65.110(4).

h. Information including, but not limited to, maps, drawings and aerial photos that clearly show the location of all the following:

(1) The open feedlot operation and all existing and proposed settled open feedlot effluent basins or AT systems, clean water diversions, and other pertinent features or structures.

(2) Any other open feedlot operation under common ownership or common management and located within 1,250 feet of the open feedlot operation.

(3) Any public water supply system as defined in Iowa Code section 455B.171 or drinking water well which is located less than the distance from the open feedlot operation required by rule 65.108(455B,459A). Information shall also be provided as to whether the proposed settled open feedlot effluent basin or AT system will meet all applicable separation distances.

567—65.108(455B,459A) Well separation distances for open feedlot operations.

65.108(1) *Settled open feedlot effluent basins.* Settled open feedlot effluent basins shall be separated from wells as follows:

a. *Public wells.* 1,000 feet from shallow wells and 400 feet from deep wells;

b. *Private wells.* 400 feet from both shallow and deep wells.

65.108(2) *Open feedlots, solids settling facilities and AT systems.* Open feedlots, solids settling facilities and AT systems shall be separated from wells as follows: for both public and private wells, 200 feet from shallow wells and 100 feet from deep wells.

65.108(3) *Variances.* Variances to this rule may be granted by the director if the applicant provides an alternative that is substantially equivalent to the rule or provides improved effectiveness or protection as required by the rule. Variance requests shall be made in writing at the time the construction permit application is submitted. The denial of a variance may be appealed to the commission.

567—65.109(459A) Settled open feedlot effluent basins—investigation, design and construction requirements. A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to 2005 Iowa Code Supplement section 459A.205 shall meet the design and construction requirements set forth in this rule.

65.109(1) *Drainage tile investigation and removal.* Prior to constructing a settled open feedlot effluent basin, the owner of the open feedlot operation shall investigate the site for the basin for a

drainage tile line. The investigation shall be made by digging a core trench to a depth of at least six feet deep from ground level at the projected center of the berm of the basin. A written record of the investigation shall be submitted as part of the construction certification required in rule 65.111(459A). If a drainage tile line is discovered, one of the following solutions shall be implemented:

a. The drainage tile line shall be rerouted around the perimeter of the basin at a distance of least 25 feet horizontally separated from the outside toe of the berm of the basin. For an area of the basin where there is not a berm, the drainage tile line shall be rerouted at least 50 feet horizontally separated from the edge of the basin.

b. The drainage tile line shall be replaced with a nonperforated tile line under the basin floor. The nonperforated tile line shall be continuous and without connecting joints. There must be a minimum of three feet between the nonperforated tile line and the basin floor.

65.109(2) *Soils and hydrogeologic report.* A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to rule 65.105(459A) shall meet design standards as required by a soils and hydrogeologic report. The report shall be submitted with the construction permit application as provided in rule 65.107(459A). The report shall include all of the following:

a. A description of the steps taken to determine the soils and hydrogeologic conditions at the proposed construction site, a description of the geologic units encountered, and a description of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the basin.

b. The subsurface soil classification of the site. A subsurface soil classification shall be based on ASTM international designation D 2487-92 or D 2488-90.

c. The results of a soils investigation conducted at a minimum of three locations within the area of the basin reflecting the continuous soil profile existing within the area of the basin. The soils investigation results shall be used in determining subsurface soil characteristics and groundwater elevation and direction of flow at the proposed site. The soils investigation shall be conducted and utilized as follows:

(1) By a qualified person ordinarily engaged in the practice of performing soils investigations.

(2) At locations that reflect the continuous soil profile conditions existing within the area of the proposed basin, including conditions found near the corners and the deepest point of the proposed basin. The soils investigation shall be conducted to a minimum depth of ten feet below the proposed bottom elevation of the basin.

(3) By methods which identify the continuous soil profile and do not result in mixing of soil layers. Soil corings using hollow stem augers and other suitable methods may be used.

(4) If located in karst terrain, at least one soil coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the settled open feedlot effluent basin or into bedrock, whichever is shallower. The department may accept information from the department's Geosam database in lieu of the coring. If bedrock is encountered, adequate investigation of the bedrock formation shall be made to determine if it consists of limestone, dolomite, or other soluble rock.

(5) Soil corings may be used to determine current groundwater levels by completing the corings as temporary monitoring wells as provided in 65.109(3)*"a"*(1) and measuring the water levels in these wells no earlier than seven days after installation as provided in 65.109(3)*"a"*(2).

(6) Upon abandonment of soil core holes, all soil core holes including those developed as temporary water level monitoring wells shall be plugged with concrete, Portland cement concrete grout, bentonite, or similar materials.

(7) If excavation methods are used in conducting the soils investigation, upon closure these excavations must be filled with suitable materials and adequately compacted to ensure they will not compromise the integrity of the basin liner.

65.109(3) *Hydrology.*

a. Determination of groundwater table. For purposes of this rule, groundwater table is the seasonal high-water table determined by a professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or Natural Resources Conservation

Service (NRCS). If a construction permit is required, the department must approve the groundwater table determination.

(1) Current groundwater levels shall be measured as provided in this subparagraph for either a formed settled open feedlot effluent basin or an unformed settled open feedlot effluent basin. Three temporary monitoring wells shall be developed according to 567—subrule 110.11(8). The top of the well screen shall be within five feet of the ground surface. Each well shall be extended to at least two feet below the proposed top of the liner of an unformed settled open feedlot effluent basin, or to at least two feet below the proposed bottom of the footings of a formed settled open feedlot effluent basin. In addition, the wells must be installed as follows:

1. Unformed basins. For an unformed settled open feedlot effluent basin, the monitoring wells may be installed in the soil core holes developed as part of conducting the soils investigation required in paragraph 65.109(2)*"c."*

2. Formed basins. For a formed settled open feedlot effluent basin, at least three temporary monitoring wells shall be installed as close as possible to three corners of the structure, with one of the wells close to the corner of deepest excavation. If the formed settled open feedlot effluent basin is circular, the three monitoring wells shall be equally spaced and one well shall be placed at the point of deepest excavation.

(2) The seasonal high-water table shall be determined by considering all relevant data, including the groundwater levels measured in the temporary monitoring wells not earlier than seven days following installation, NRCS soil survey information, soil characteristics such as color and mottling, other existing water table data, and other pertinent information. If a drainage system for artificially lowering the groundwater table will be installed in accordance with the requirements of paragraph 65.109(3)*"c,"*the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

b. The settled open feedlot effluent basin shall be constructed with a minimum separation of two feet between the top of the liner of the basin and the seasonal high-water table.

c. If a drainage tile line around the perimeter of the basin is installed a minimum of two feet below the top of the basin liner to artificially lower the seasonal high-water table, the top of the basin's liner may be a maximum of four feet below the seasonal high-water table which existed prior to installation of the perimeter tile system. The seasonal high-water table may be artificially lowered by gravity flow tile lines or other similar system. However, the following shall apply:

(1) Except as provided in subparagraph (2), an open feedlot operation shall not use a nongravity mechanical system that uses pumping equipment.

(2) If the open feedlot operation was constructed before July 1, 2005, the operation may continue to use its existing nongravity mechanical system that uses pumping equipment, or it may construct a new nongravity mechanical system that uses pumping equipment. However, an open feedlot operation that expands the area of its open feedlot on or after April 1, 2011, shall not use a nongravity mechanical system that uses pumping equipment.

(3) Drainage tile lines may be installed to artificially lower the seasonal high-water table at a settled open feedlot effluent basin, if all of the following conditions are satisfied:

1. A device to allow monitoring of the water in the drainage tile lines and a device to allow shutoff of the flow in the drainage tile lines are installed, if the drainage tile lines do not have a surface outlet accessible on the property where the settled open feedlot effluent basin is located.

2. Drainage tile lines are installed horizontally at least 25 feet away from the outside toe of the berm of the settled open feedlot effluent basin. Drainage tile lines shall be placed in a vertical trench and encased in granular material which extends upward to the level of the seasonal high-water table which existed prior to installation of the perimeter tile system.

65.109(4) *Karst terrain.*

a. Construction prohibited. Settled open feedlot effluent basins shall not be constructed in areas which drain to known sinkholes or in karst terrain. Structure sites located within one mile of karst terrain shall be considered to be located in karst terrain, unless site-specific geologic information is submitted

documenting that 25 feet of suitable materials exist between the structure bottom and carbonated bedrock or limestone or dolomite.

b. The use of formed structures is required to store liquid or dry manure in karst terrain.

(1) Formed structures constructed of concrete in karst terrain shall comply with the provisions of 65.15(14).

(2) The use of formed structures constructed of materials other than concrete and located in areas which drain to known sinkholes or located in karst terrain may be approved by the department if the proposed structures are designed by a professional engineer, a minimum of five feet vertical separation is maintained between the structure bottom and carbonated bedrock, and the engineer certifies and provides data showing the permeability of the geologic material below the structure's base is sufficiently low to provide an adequate barrier to prevent percolation into carbonated bedrock or groundwater.

c. Construction of settled open feedlot effluent basins is allowed in areas identified as karst terrain if site-specific geologic information is submitted documenting that 25 feet of suitable materials exist between the structure bottom and carbonated bedrock or limestone or dolomite.

65.109(5) *Bedrock separation.* A settled open feedlot effluent basin shall be constructed with at least four feet of separation between the bottom of the basin and a bedrock formation.

65.109(6) *Floodplain requirements.*

a. *Construction in floodplains.* Open feedlot operation structures located on a floodplain or within a floodway of a river or stream may be required to obtain DNR permits and provide protection from inundation by flood waters, as specified in 567—Chapters 71 and 72.

b. *Permits for dam construction.* Open feedlot operation structures exceeding storage capacity or dam height thresholds may be required to obtain DNR permits, as specified in 567—71.3(455B) and 72.3(455B).

65.109(7) *Liner design and construction.* The liner of a settled open feedlot effluent basin shall comply with all of the following:

a. The liner shall comply with any of the following permeability standards:

(1) The liner shall be constructed to have a percolation rate that shall not exceed one-sixteenth inch per day at the design depth of the basin as determined by percolation tests conducted by the professional engineer. If a clay soil liner is used, the liner shall be constructed with a minimum thickness of 12 inches or the minimum thickness necessary to comply with the percolation rate in this paragraph, whichever is greater.

(2) The liner shall be constructed to have a percolation rate that shall not exceed one-sixteenth inch per day at the design depth of the basin. The design of the liner will specify a moisture content, compaction requirement, and liner thickness that will comply with the maximum allowable percolation requirement, and will be based on moisture content and percentage of maximum density as determined by a standard 5 point proctor test performed in accordance with ASTM D698 (Method A). The liner thickness will be based on laboratory tests of the compacted material, with a minimum liner thickness of 12 inches. Appropriate field or laboratory testing during construction shall be provided to verify the design requirements are met.

b. If a synthetic liner is used, the liner shall be installed to comply with the percolation rate required in 65.109(7)*"a"*(1).

65.109(8) *Berm erosion inspection and repair.* The owner of an open feedlot operation using a settled open feedlot effluent basin shall inspect the berms of the basin at least semiannually for evidence of erosion. If the inspection reveals erosion which may impact the basin's structural stability or the integrity of the basin's liner, the owner shall repair the berms.

567—65.110(459A) AT systems—design requirements.

65.110(1) *Containment volume.*

a. Adequate capacity must be provided within the AT system or within the solids settling facility for the open feedlot operation to contain expected open feedlot effluent from November 1 to March 30 or to hold the precipitation event as required by 65.101(2)*"a,"* whichever is greater. Controls on the solids

settling facility or the AT system shall prevent release of collected open feedlot effluent to waters of the United States during the period from November 1 to March 30.

b. If the containment volume required in 65.110(1)*"a"* is provided in an open feedlot operation structure whose primary purpose is to remove settleable solids from open feedlot effluent prior to discharge into an AT system, the basin shall not be required to comply with the liner design and construction requirements of 65.109(7), provided the basin does not retain collected open feedlot effluent for more than seven consecutive days following a precipitation event during the period from March 30 to November 1.

65.110(2) *Solids settling.* Settleable solids shall be removed from open feedlot effluent prior to discharge of the effluent into an AT system. Solids settling shall be conducted in conformance with the requirements of paragraph 65.101(1)*"b."*

65.110(3) *Drainage tile investigation and removal.* Prior to constructing an AT system, the owner of the open feedlot operation shall investigate the site for the AT system for drainage tile lines. The investigation shall be made by digging a core trench to a depth of at least six feet from ground level at the projected center of the berm of the AT system. A written record of the investigation shall be submitted as part of the construction certification required in rule 65.111(459A). If a drainage tile line is discovered, one of the following solutions shall be implemented:

a. The drainage tile line shall be rerouted around the perimeter of the AT system at a distance of least 25 feet horizontally separated from the toe of the outside berm of the AT system. For an area of the system where there is not a berm, the drainage tile line shall be rerouted at least 50 feet horizontally separated from the edge of the system.

b. The drainage tile line shall be replaced with a nonperforated tile line under the AT system. The nonperforated tile line shall be continuous and without connecting joints. There must be a minimum of three feet of separation between the nonperforated tile line and the soil surface of the AT system.

65.110(4) *Soils and hydrogeologic report.* An AT system constructed pursuant to a construction permit issued pursuant to rule 65.105(459A) shall meet design standards as required by a soils and hydrogeologic report. The report shall be submitted with the construction permit application as provided in rule 65.107(459A). The report shall include all of the following:

a. A description of the steps taken to determine the soils and hydrogeologic conditions at the proposed construction site, a description of the geologic units encountered, and a description of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the AT system.

b. Subsurface soil classification of the site. A subsurface soil classification shall be based on ASTM international designation D 2487-92 or D 2488-90.

c. The results of a soils investigation conducted at a minimum of three locations within the area of the proposed AT system for AT systems of five acres or less, with one additional soils investigation site utilized for each additional three acres of surface area or fraction thereof. The soils investigation results shall be used in determining subsurface soil characteristics and groundwater elevation and direction of flow at the proposed AT system site. The soils investigation shall be conducted and utilized as follows:

(1) By a qualified person ordinarily engaged in the practice of performing soils investigations.

(2) At locations that reflect the continuous soil profile conditions existing within the area of the proposed AT system. The soils investigation shall be conducted to a minimum depth of ten feet below the elevation of the soil surface of the proposed AT system.

(3) By methods which identify the continuous soil profile and do not result in mixing of soil layers. Investigation methods may include soil corings using hollow stem augers, soil test pits, or other suitable methods.

(4) If located in karst terrain, at least one soil coring shall be taken to a minimum depth of 25 feet below the elevation of the soil surface of the proposed AT system or into bedrock, whichever is shallower. The department may accept well log information from the department's Geosam database in lieu of the coring. If bedrock is encountered, adequate investigation of the bedrock formation shall be made to determine if it consists of limestone, dolomite, or other soluble rock.

(5) Soil core holes may be used to determine current groundwater levels by completing the core holes as temporary monitoring wells and measuring the water levels in these wells not earlier than seven days after installation.

(6) Upon abandonment of the soil core holes, all soil core holes, including those developed as temporary water level monitoring wells, shall be plugged with concrete, Portland cement concrete grout, bentonite, or similar materials.

(7) If soil test pits or other excavation methods are used in conducting the soils investigation, upon closure these excavations must be filled with suitable materials and adequately compacted to ensure they will not compromise the integrity of the AT system.

65.110(5) *Hydrology—groundwater table.* For purposes of this rule, groundwater table is the seasonal high-water table determined by a professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or Natural Resources Conservation Service (NRCS). If a construction permit is required, the department must approve the groundwater table determination.

a. Groundwater level measurements. Groundwater levels shall be measured using at least one of the following methods:

(1) Temporary monitoring wells. Three temporary monitoring wells shall be developed to a minimum of ten feet below the surface of the proposed AT system and constructed in accordance with requirements of 567—subrule 110.11(8). The top of the well screen shall be within five feet of the ground surface. These monitoring wells may be installed in the soil core holes developed as part of conducting the soils investigation required in paragraph 65.110(4)*"c."*

(2) Test pits. Test pits may be used in lieu of temporary monitoring wells to determine the seasonal high-water table or prior to the construction of an AT system to ensure the required separation distance to the seasonal high-water table is being met. The bottom of each pit shall be a minimum of five feet below the proposed surface of the AT system. However, if the test pit is also being used to conduct the soils investigation required in 65.110(4)*"c,"* the bottom of the pit shall be a minimum of ten feet below the surface of the proposed AT system. Each pit shall be allowed to remain open and unaltered for a minimum of seven days for viewing by the department or NRCS qualified staff. Adequate protection (temporary berms and covers) shall be provided to prevent surface runoff from entering the test pits. Test pits shall be located as needed to provide an accurate assessment of soil materials and seasonal high groundwater levels throughout the area of the proposed AT system. A description of the materials present in the test pit shall be documented by all of the following:

- Digital photos;
- Description of soils including mottling;
- Weather conditions both prior to and during the period in which test pits are open.

b. Determination of seasonal high-water table. The seasonal high-water table shall be determined by considering all relevant data, including the groundwater levels measured in the temporary monitoring wells or test pits not earlier than seven days following installation, NRCS soil survey information, soil characteristics such as color and mottling found in soil cores and test pits, other existing water table data, and other pertinent information. If a drainage system for artificially lowering the groundwater table will be installed in accordance with the requirements of paragraph 65.110(6)*"g"* or 65.110(7)*"g,"* the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

65.110(6) *Vegetative infiltration basin followed by vegetative treatment area.*

a. Computer modeling. Results of predictive computer modeling for the proposed AT system shall be used to determine suitability of the proposed site for the AT system and to predict performance of the AT system as compared to the use of a 25-year, 24-hour runoff containment system, over a 25-year period. A summary of the computer modeling results shall be provided to the department.

b. Size. The computer model used to determine if the proposed AT system will meet the equivalent performance standard shall also be used to establish the minimum required size of the VIB and VTA. However, the size of the VIB shall not be less than 30 percent of the total drainage area (feedlot and

other) served by the basin, and the size of the VTA shall not be less than 30 percent of the surface area of the VIB.

c. *Slope.* The following slope requirements apply to the constructed system components.

(1) VIB. The maximum slope of the constructed VIB shall not exceed 1 percent.

(2) VTA. The constructed VTA shall be level in one dimension and have a slight slope (maximum of 5 percent) in the other dimension.

d. *Berming.*

(1) VIB. The VIB must be bermed to prevent inflow of surface water from outside the VIB and prevent surface outflow of feedlot effluent from the VIB.

(2) VTA. The VTA must be bermed to prevent inflow of surface water from outside areas.

e. *Spreaders.* Settled open feedlot effluent must be discharged evenly across the top width of the VTA and allowed to slowly flow downslope through the VTA. Level spreaders or other practices may be required to maintain uniform flow of settled open feedlot effluent across the width of the VTA as flow moves downslope through the VTA.

f. *Soil permeability.* Soil permeability within the VIB and VTA must be from 0.6 to 2.0 inches per hour throughout the soil profile to a depth of five feet. Soil permeability must be verified by conducting on-site or laboratory soil permeability testing.

g. *Groundwater lowering system.* The seasonal high-water table within the VIB and the VTA must be capable of being lowered to a depth of four to five feet with a perimeter tile system installed outside of the VIB or VTA. Design information must be provided which demonstrates the adequacy of the proposed groundwater lowering system. The tile system must satisfy the following requirements:

(1) If the tile system does not have a surface outlet accessible on the property where the AT system is located, a device to allow monitoring of the water in the tile system and a device to allow shutoff of the flow in the tile system must be installed.

(2) Tile lines in the system must be installed horizontally at least 25 feet away from the outside toe of the berm of the VIB or VTA.

h. *Tile system to enhance infiltration within the VTA.* A tile system may be installed at the perimeter of the VTA cells to enhance infiltration within the VTA. The tile system must satisfy the following requirements:

(1) Tile lines shall be installed at the centerline of the berms of the VTA cells.

(2) The tile lines shall be constructed such that no settled open feedlot effluent can enter the lines except through infiltration through the soil profile.

(3) A shutoff valve and sampling point located downslope of the VTA cell shall be provided for each individual tile line. However, if multiple tile lines are brought together into a common tile line, a single shutoff valve and sampling point may be utilized.

(4) Monitoring of the tile lines must be conducted in accordance with the requirements of 65.104(9)*"d"*(2).

i. *Depth to sands, gravels, or glacial outwash.*

(1) VIB. A VIB is not allowed if the depth to sands, gravels, or glacial outwash is less than ten feet.

(2) VTA. A VTA is not allowed if the depth to sands, gravels, or glacial outwash is less than six feet.

(3) A soils investigation that documents sands found are in isolated sand lenses that will not have a significant impact on subsurface water flow or groundwater quality shall not prohibit use of the site.

j. *Depth to bedrock.* A minimum of ten feet of overburden or loose material must exist between the surface of the constructed VIB or VTA and underground bedrock.

k. *Flooding.* Both the VIB and the VTA must be constructed in areas which are not subject to flooding more frequently than once in 25 years.

l. *Distance to water bodies.* The following distances, measured along the path of water flow, shall be provided between the point of discharge from the VTA and the receiving water body.

(1) Designated use streams referenced in 567—subrule 61.3(5). A minimum distance of 500 feet or one-half foot distance per animal unit capacity of the open feedlot area which drains to the VTA, whichever is greater, shall be provided.

(2) All other uncrossable intermittent streams. A minimum distance of 200 feet shall be provided.

65.110(7) *Stand-alone VTA.*

a. Computer modeling. Results of predictive computer modeling for the proposed alternative technology system shall be used to determine suitability of the proposed site for the system and to predict performance of the alternative technology system as compared to the use of a 25-year, 24-hour runoff containment system, over a 25-year period. A summary of the computer modeling results shall be provided to the department.

b. Size. The computer model used to determine if the proposed AT system will meet the equivalent performance standard shall also be used to establish the minimum required size of the VTA. However, in no case shall the size of the VTA be less than the following:

(1) 50 percent of the total drainage area (feedlot and other) served if the soil permeability is from 0.6 to 2.0 inches per hour.

(2) 100 percent of the total drainage area (feedlot and other) served if the soil permeability is from 0.2 to 0.6 inches per hour.

c. Slope. The constructed VTA shall be level in one dimension and have a slight slope (maximum of 5 percent) in the other dimension.

d. Berming. The VTA must be bermed to prevent inflow of surface water from outside areas.

e. Spreaders. Settled open feedlot effluent must be discharged evenly across the top width of the VTA and allowed to slowly flow downslope through the VTA. Level spreaders or other practices may be required to maintain uniform flow of settled open feedlot effluent across the width of the VTA as flow moves downslope through the VTA.

f. Soil permeability. Soil permeability within the VTA must be from 0.2 to 2.0 inches per hour throughout the soil profile to a depth of five feet. Soil permeability must be verified by conducting on-site or laboratory soil permeability testing.

g. Groundwater lowering system. The seasonal high-water table within the VTA must be capable of being lowered to a depth of four to five feet with a perimeter tile system installed outside of the VTA. Design information must be provided which demonstrates the adequacy of the proposed groundwater lowering system. The tile system must satisfy the following requirements:

(1) If the tile system does not have a surface outlet accessible on the property where the AT system is located, a device to allow monitoring of the water in the tile system and a device to allow shutoff of the flow in the tile system must be installed.

(2) Tile lines in the system must be installed horizontally at least 25 feet away from the outside toe of the berm of the VTA.

h. Tile system to enhance infiltration within the VTA. A tile system may be installed at the perimeter of the VTA cells to enhance infiltration within the VTA. The tile system must satisfy the following requirements:

(1) Tile lines shall be installed at the centerline of the berms of the VTA cells.

(2) The tile lines shall be constructed such that no settled open feedlot effluent can enter the lines except through infiltration through the soil profile.

(3) A shutoff valve and sampling point located downslope of the VTA cell shall be provided for each individual tile line. However, if multiple tile lines are brought together into a common tile line, a single shutoff valve and sampling point may be utilized.

(4) Monitoring of the tile lines must be conducted in accordance with the requirements of 65.104(9)*"d"*(2).

i. Depth to sands, gravels, or glacial outwash. A VTA is not allowed if the depth to sands, gravels, or glacial outwash is less than six feet. A soils investigation that documents sands found are in isolated sand lenses that will not have a significant impact on subsurface water flow or goundwater quality shall not prohibit use of the site.

j. Depth to bedrock. A minimum of ten feet of overburden or loose material must exist between the surface of the constructed VTA and underground bedrock.

k. Flooding. The VTA must be constructed in areas which are not subject to flooding more frequently than once in 25 years.

l. *Distance to water bodies.* The following distances, measured along the path of water flow, shall be provided between the point of discharge from the VTA and the receiving water body.

(1) Designated use streams referenced in 567—subrule 61.3(5). A minimum distance of 500 feet or one-half foot distance per animal unit capacity of the feedlot area which drains to the VTA, whichever is greater, shall be provided.

(2) All other uncrossable intermittent streams. A minimum distance of 200 feet shall be provided.

567—65.111(459A) Construction certification.

65.111(1) The owner of an open feedlot operation who is issued a construction permit for a settled open feedlot effluent basin or AT system as provided in rule 65.105(459A) on or after July 1, 2005, shall submit to the department a construction certification from a professional engineer certifying all of the following:

a. The basin or AT system was constructed in accordance with the design plans submitted to the department as part of an application for a construction permit pursuant to rule 65.107(459A). If the actual construction deviates from the approved design plans, the construction certification shall identify all changes and certify that the changes were consistent with all applicable standards of these rules.

b. The basin or AT system was inspected by the professional engineer after completion of construction and before commencement of operation.

65.111(2) A written record of an investigation for drainage tile lines, including the findings of the investigation and actions taken to comply with 65.109(1) or 65.110(3), shall be submitted as part of the construction certification.

567—65.112(459A) Nutrient management plan requirements.

65.112(1) The owner of an open feedlot operation which has an animal unit capacity of 1,000 animal units or more or which is required to be issued an NPDES permit shall develop and implement a nutrient management plan meeting the requirements of this rule by December 31, 2006. For the purpose of this rule, requirements pertaining to open feedlot effluent also apply to settled open feedlot effluent and settleable solids.

65.112(2) Not more than one open feedlot operation shall be covered by a single nutrient management plan.

65.112(3) A person shall not remove manure, process wastewater or open feedlot effluent from an open feedlot operation structure which is part of an open feedlot operation for which a nutrient management plan is required under this rule, unless the department approves a nutrient management plan as required in this rule.

65.112(4) The department shall not approve an application for a permit to construct a settled open feedlot effluent basin or AT system unless the owner of the open feedlot operation applying for approval submits a nutrient management plan together with the application for the construction permit as provided in rule 65.105(459A). The owner shall also submit proof that the owner has published a notice for public comment as provided in 65.112(7).

65.112(5) If a construction permit is required as provided in rule 65.105(459A), the department shall approve or disapprove the nutrient management plan as part of the construction permit application. If a construction permit is not required, the department shall approve or disapprove the nutrient management plan within 60 days from the date that the department receives the nutrient management plan.

65.112(6) Prior to approving or disapproving a nutrient management plan as required in this rule, the department may receive comments exclusively to determine whether the nutrient management plan is submitted according to procedures required by the department and that the nutrient management plan complies with the provisions of this rule.

65.112(7) Public notice.

a. The owner of the open feedlot operation shall publish a notice for public comment in a newspaper having a general circulation in the county where the open feedlot operation is or is proposed to be located and in the county where manure, process wastewater, or open feedlot effluent which

originates from the open feedlot operation may be applied under the terms and conditions of the nutrient management plan.

b. The notice for public comment shall include all of the following:

(1) The name of the owner of the open feedlot operation submitting the nutrient management plan.

(2) The name of the township where the open feedlot operation is or is proposed to be located and the name of the township where manure, process wastewater, or open feedlot effluent originating from the open feedlot operation may be applied.

(3) The animal unit capacity of the open feedlot operation.

(4) The time when and the place where the nutrient management plan may be examined as provided in Iowa Code section 22.2.

(5) Procedures for providing public comment to the department. The notice shall also include procedures for requesting a public hearing conducted by the department. The department is not required to conduct a public hearing if it does not receive a request for the public hearing within ten days after the first publication of the notice for public comment as provided in this subrule. If such a request is received, the public hearing must be conducted within 30 days after the first date that the notice for public comment was published.

(6) A statement that a person may acquire information relevant to making comments under this subrule by accessing the department's Internet Web site. The notice for public comment shall include the address of the department's Internet Web site as required by the department.

65.112(8) A nutrient management plan shall include all of the following:

a. Restrictions on the application of open feedlot effluent based on all of the following:

(1) A phosphorus index of each field in the nutrient management plan, as defined in 65.17(17)*"a,"* including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation. In addition, total phosphorus (as P_2O_5) available to be applied from the open feedlot operation shall be included.

(2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in 65.17(4). The 100 pounds of available nitrogen per acre limitation specified in 65.17(18)*"c"* (applicable to open feedlot operations because of requirements in 65.17(4)) pertaining to liquid manure applied to land currently planted to soybeans or to land where a soybean crop is planned applies only to liquid manure, process wastewater or settled open feedlot effluent.

b. Information relating to the application of the manure, process wastewater and open feedlot effluent, including all of the following:

(1) Nutrient levels of the manure, process wastewater and open feedlot effluent.

(2) Application methods, the timing of the application, and the location of the land where the application occurs.

c. If the application is on land other than land owned or rented for crop production by the owner of the open feedlot operation, the plan shall include a copy of each written agreement executed by the owner of the open feedlot operation and the landowner or the person renting the land for crop production where the manure, process wastewater or open feedlot effluent may be applied.

d. An estimate of the manure, process wastewater and open feedlot effluent volume or weight produced by the open feedlot operation.

e. Information which shows all of the following:

(1) There is adequate storage for manure, process wastewater, stockpiled manure and open feedlot effluent, including procedures to ensure proper operation and maintenance of the storage structures.

(2) The proper management of animal mortalities to prevent discharge of pollutants to surface water and to ensure that animals are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat animal mortalities.

(3) Surface drainage prior to contact with an open feedlot structure is diverted, as appropriate, from the open feedlot operation.

(4) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.

(5) Chemicals or other contaminants handled on site are not disposed of in manure, process wastewater, an open feedlot operation structure or a treatment system that is not specifically designed to treat such chemicals or contaminants.

(6) Equipment used for the land application of manure, process wastewater or open feedlot effluent must be periodically inspected for leaks.

(7) Identification of specific records that will be maintained to document the implementation and management of the requirements in this subrule.

65.112(9) If an open feedlot operation uses an alternative technology system as provided in rule 65.110(459A), the nutrient management plan is not required to provide for settled open feedlot effluent that enters the AT system.

65.112(10) Current nutrient management plan, record keeping and inspections.

a. Current nutrient management plan. The owner of an open feedlot operation who is required to submit a nutrient management plan shall maintain a current nutrient management plan at the site of the open feedlot operation and shall make the current nutrient management plan available to the department upon request. If nutrient management practices change, a person required to submit a nutrient management plan shall make appropriate changes consistent with this rule. If values other than the standard table values are used for nutrient management plan calculations, the source of the values used shall be identified.

b. Record keeping. Records shall be maintained by the owner of a open feedlot operation who is required to submit a nutrient management plan. This recorded information shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the open feedlot operation and shall be made available to the department upon request. Records to demonstrate compliance with the nutrient management plan shall include the following:

(1) Factors used to calculate the manure, process wastewater and open feedlot effluent application rate:

1. Optimum yield for the planned crop.

2. Types of nitrogen credits and amounts.

3. Remaining crop nitrogen needed.

4. Nitrogen content and first-year nitrogen availability of the manure, process wastewater and open feedlot effluent.

5. Phosphorus content of the manure, process wastewater and open feedlot effluent as required in 65.17(3)*"i"*(1) and (2). If an actual sample is used, documentation shall be provided.

(2) If phosphorus-based application rates are used, the following shall be included:

1. Crop rotation.

2. Phosphorus removed by crop harvest of that crop rotation.

(3) Maximum allowable manure, process wastewater and open feedlot effluent application rate.

(4) Actual manure, process wastewater and open feedlot effluent application information:

1. Method(s) of application when manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

2. Date(s) when the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

3. Weather conditions at time of application and for 24 hours prior to and following the application.

4. Location of the field where the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied, including the number of acres.

5. The manure, process wastewater or open feedlot effluent application rate.

6. Dates when application equipment was inspected.

(5) Date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received manure, process wastewater or open feedlot effluent. However, if the date and application rate information is for fields which are not owned for crop production or which are not rented or leased for

crop production by the person required to keep records pursuant to this subrule, an enforcement action for noncompliance with a nutrient management plan or the requirements of this subrule shall not be pursued against the person required to keep records pursuant to this subrule or against any other person who relied on the date and application rate in records required to be kept pursuant to this subrule, unless that person knew or should have known that nitrogen or phosphorus would be applied in excess of maximum levels set forth in paragraph 65.17(1)*"a."* If nutrients are applied to fields not owned, rented or leased for crop production by the person required to keep records pursuant to this subrule, that person shall obtain from the person who owns, rents or leases those fields a statement specifying the planned commercial nitrogen and phosphorus fertilizer rates to be applied to each field receiving the nutrients.

(6) A copy of the current soil test laboratory results for each field in the nutrient management plan.

(7) All applicable records identified in 65.112(8)*"e"*(7).

c. Record inspection. The department may inspect an open feedlot operation at any time during normal working hours and may inspect the nutrient management plan and any records required to be maintained.

65.112(11) Settled open feedlot effluent on land planted to soybeans. Effective May 14, 2013, the owner of an open feedlot operation that is required to submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure, process wastewater or settled open feedlot effluent shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

567—65.113(459A) Complaint investigations. Complaints of violations of Iowa Code chapter 455B or 459, or 2005 Iowa Code Supplement chapter 459A, or these rules, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

65.113(1) If after evaluating a complaint to determine whether the allegation may constitute a violation, without investigating whether the facts supporting the allegation are true or untrue, the county board of supervisors shall forward its finding to the department director.

65.113(2) A complaint is legally sufficient if it contains adequate information to investigate the complaint and if the allegation constitutes a violation, without an investigation of whether the facts supporting the allegation are true or untrue, of department rules, Iowa Code chapter 455B or 459, or 2005 Iowa Code Supplement chapter 459A, or environmental standards in regulations subject to federal law and enforced by the department.

65.113(3) The department in its discretion shall determine the urgency of the investigation, and the time and resources required to complete the investigation, based upon the circumstances of the case, including the severity of the threat to the quality of surface water or groundwater.

65.113(4) The department shall notify the complainant and the alleged violator if an investigation is not conducted specifying the reason for the decision not to conduct an investigation.

65.113(5) The department will notify the county board of supervisors where the violation is alleged to have occurred before doing a site investigation unless the department determines that a clear, present and impending danger to the public health or environment requires immediate action.

65.113(6) The county board of supervisors may designate a county employee to accompany the department on the investigation of any site as a result of a complaint.

65.113(7) A county employee accompanying the department on a site investigation has the same right of access to the site as the department official conducting the investigation during the period that the county designee accompanies the department official.

65.113(8) Upon completion of an investigation, the department shall notify the complainant of the results of the investigation, including any anticipated, pending or complete enforcement action arising

from the investigation. The department shall deliver a copy of the notice to the open feedlot operation that is the subject of the complaint, any alleged violators if different from the open feedlot operation and the county board of supervisors of the county where the violation is alleged to have occurred.

65.113(9) When a person who is a department official, an agent of the department, or a person accompanying the department official or agent enters the premises of an open feedlot operation, both of the following shall apply:

a. The person may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of Iowa Code chapter 455B or 459, or 2005 Iowa Code Supplement chapter 459A, or these rules. However, the owner or person in charge shall be notified.

(1) If the owner or occupant of any property refuses admittance to the operation, or if prior to such refusal the director demonstrates the necessity for a warrant, the director may make application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

(2) In the application the director shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is to be made. If an item of property is sought by the director, it shall be identified in the application.

(3) If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe their existence, the court may issue such search warrant.

(4) In making inspections and searches pursuant to the authority of this rule, the director must execute the warrant:

1. Within ten days after its date.

2. In a reasonable manner, and any property seized shall be treated in accordance with the provisions of Iowa Code chapters 808, 809, and 809A.

3. Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

b. The person shall comply with standard biosecurity requirements customarily required by the open feedlot operation which are necessary in order to control the spread of disease among an animal population.

567—65.114(455B,459A) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted open feedlot operation and its open feedlot operation structure is transferred, the person to whom title or legal responsibility is transferred shall be subject to all terms and conditions of the permit and these rules. The person to whom the permit was issued and the person to whom title or legal responsibility is transferred shall notify the department of the transfer of legal responsibility or title of the operation within 30 days of the transfer. Within 30 days of receiving a written request from the department, the person to whom legal responsibility is transferred shall submit to the department all information needed to modify the permit to reflect the transfer of legal responsibility.

These rules are intended to implement Iowa Code sections 455B.171 to 455B.191, 459.314, and 459.601 and 2005 Iowa Code Supplement chapter 459A.

APPENDIX A

OPEN FEEDLOT EFFLUENT CONTROL ALTERNATIVES FOR OPEN FEEDLOT OPERATIONS

Introduction: Water pollution control requirements for animal feeding operations are given in 567—65.101(459A). Under these rules, open feedlots meeting the NPDES permit application requirements of rule 567—65.104(455B,459A) must also comply with the minimum open feedlot effluent control requirements of subrule 65.101(2). Subrule 65.101(2) requires that all feedlot runoff and other open feedlot effluent flows resulting from precipitation events less than or equal to the 25-year, 24-hour rainfall event be collected and land-applied. For the purpose of this appendix, open feedlot effluent includes manure, process wastewater, settled open feedlot effluent and settleable solids.

This appendix describes five feedlot runoff control systems that meet the requirements of subrule 65.101(2). The systems differ in the volume of open feedlot effluent storage provided and in the frequency of open feedlot effluent application. In general, the time interval between required applications increases with increased storage volume.

A feedlot operator who constructs and operates an open feedlot effluent control facility in accordance with the requirements of any of these five systems will not have additional open feedlot effluent control requirements imposed, unless open feedlot effluent discharges from the facility cause state water quality standards violations. In describing the five systems, the major features of each are first reviewed, followed by detailed information on the construction and operation requirements of the system. The system descriptions are presented in this appendix as follows:

	System
System 1:	One Open Feedlot Effluent Application Period Per Year
System 2:	July and October Open Feedlot Effluent Application
System 3:	April, July, and October Open Feedlot Effluent Application
System 4:	Application After Each Significant Precipitation Event
System 5:	April/May and October/November Open Feedlot Effluent Application
Figures 1-4	

SYSTEM 1: ONE OPEN FEEDLOT EFFLUENT APPLICATION PERIOD PER YEAR

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average annual runoff from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent must be removed from the control system and land-applied at least once annually (interval between successive applications cannot exceed 12 months).

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 1.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 1.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average annual runoff expected from these areas.*

D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average annual runoff expected from these areas.*

E. The volume of process wastewater which drains into the control system during a 12-month period.

F. The volume of open feedlot effluent from other sources which discharges into the control system during a 12-month period.

*Expected 25-year, 24-hour and average annual runoff values shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

2. Feedlot Runoff Control System: Accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application at least once annually. The interval between successive application periods shall not exceed 12 months.

During application periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage volume.

Land application of open feedlot effluent shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for open feedlot effluent application if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

SYSTEM 2: JULY AND OCTOBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur over the nine-month period from November 1 through July 31 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied during any period of the year that conditions are suitable. While application during other periods will minimize the need for July and October application, sufficient open feedlot effluent must still be disposed of during July and October to reduce the volume of open feedlot effluent remaining in the control system during these months to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Open feedlot effluent solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 2.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 2.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average runoff expected to occur from these areas during the nine-month period from November 1 to July 31.*

D. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the average runoff expected to occur from these areas during the nine-month period from November 1 to July 31.*

E. The volume of process wastewater which drains into the control system during the nine-month period from November 1 through July 31.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the nine-month period from November 1 through July 31.

*Expected 25-year, 24-hour runoff and average runoff for the nine-month period from November 1 through July 31 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

2. Feedlot Runoff Control System:

A. A feedlot operator must comply with the following open feedlot effluent application requirements if application operations are limited to the months of July and October.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage capacity.

During July and October, open feedlot effluent application operations shall be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete application of open feedlot effluent to be accomplished during July or October, application must be continued into the following month. Open feedlot effluent application operations may cease when complete application has been achieved.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

B. A feedlot operator may dispose of accumulated open feedlot effluent during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during July and October, the feedlot operator will still need to dispose of sufficient open

feedlot effluent during July and October to reduce the open feedlot effluent volume remaining in the runoff control system during these months to less than 10 percent of the system's design open feedlot effluent storage capacity.

A feedlot operator who does not limit open feedlot effluent application operations to the months of July and October is not required to comply with the specific open feedlot effluent application requirements which apply when application is limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct application operations at rates and times which are sufficient to ensure that the open feedlot effluent volume remaining in the runoff control system during July and October will be reduced to less than 10 percent of the system's design open feedlot effluent storage capacity.

SYSTEM 3: APRIL, JULY AND OCTOBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur during the six-month period from November 1 through April 30 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during the specified application months, sufficient open feedlot effluent must still be disposed of during April, July and October to reduce the volume of open feedlot effluent remaining in the control system during these months to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 3.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 3.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average annual runoff expected to occur from these areas during the six-month period from November 1 to April 30.*

D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average runoff expected to occur from these areas during the six-month period from November 1 to April 30.*

E. The volume of process wastewater which drains into the control system during the six-month period from November 1 through April 30.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the six-month period from November 1 through April 30.

*Expected 25-year, 24-hour runoff and average runoff for the six-month period from November 1 through April 30 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

2. Feedlot Runoff Control System:

A. A feedlot operator must comply with the following open feedlot effluent application requirements if application operations are limited to the months of April, July and October.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage capacity.

During April, July and October, open feedlot effluent application operations shall be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete application of open feedlot effluent to be accomplished during any of these months, open feedlot effluent application must be continued into the following month. Open feedlot effluent application operations may cease when complete application has been achieved.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

B. A feedlot operator may dispose of accumulated open feedlot effluent during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during April, July and October, the feedlot operator will still need to dispose of sufficient open feedlot effluent during April, July and October to reduce the open feedlot effluent volume remaining in the runoff control system during these months to less than 10 percent of the system's design open feedlot effluent storage capacity.

A feedlot operator who does not limit open feedlot effluent application operations to the months of April, July and October is not required to comply with the specific open feedlot effluent application requirements which apply when application is limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct application operations at rates and times which are sufficient to ensure that the open feedlot effluent volume remaining in the runoff control system during April, July and October will be reduced to less than 10 percent of the system's design open feedlot effluent storage capacity.

SYSTEM 4: OPEN FEEDLOT EFFLUENT APPLICATION AFTER EACH SIGNIFICANT PRECIPITATION EVENT

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the runoff expected to occur as a result of the 25-year, 24-hour precipitation event from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent must be removed from the control system and land-applied whenever the available (unoccupied) storage capacity remaining in the control system is less than 90 percent of that needed to store runoff from the 25-year, 24-hour precipitation event; land application must begin on the first day that conditions are suitable and must continue until application is completed.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the total feedlot area which drains into the control system by the amount of runoff expected to occur from this area as a result of the 25-year, 24-hour precipitation event.*

B. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the amount of runoff expected to occur from these areas as a result of the 25-year, 24-hour precipitation event.*

C. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the amount of runoff expected to occur from these areas as a result of the 25-year, 24-hour precipitation event.*

D. The volume of process wastewater which drains into the control system during the six-month period from November 1 through April 30.

E. The volume of open feedlot effluent from other sources which discharges into the control system during the six-month period from November 1 through April 30.

*Expected 25-year, 24-hour runoff shall be determined by using runoff prediction methodologies of the NRCS (or equivalent methodologies).

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

2. Feedlot Runoff Control System: Accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application following each precipitation or snowmelt runoff event which results in significant open feedlot effluent accumulations in the control system. Open feedlot effluent accumulations will be considered significant whenever the available (unoccupied) storage capacity remaining in the control system is less than 90 percent of that required to store the runoff from the 25-year, 24-hour precipitation event.

Once the available storage capacity remaining in the open feedlot effluent control system is reduced to the point that open feedlot effluent application is necessary, open feedlot effluent application operations must be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. Application operations may cease when the storage capacity available in the control system has been restored to greater than 90 percent of that required to store runoff from the 25-year, 24-hour precipitation event.

During application periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the control system in ten or fewer application days.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

SYSTEM 5: APRIL/MAY AND OCTOBER/NOVEMBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur over the eight-month period from October 1 through May 31 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during the April/May and the October/November periods, sufficient open feedlot effluent must still be disposed of during each of these two-month periods to reduce the volume of open feedlot effluent remaining in the control system during these periods to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Open feedlot effluent solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total open feedlot effluent volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 4.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 4.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average runoff expected to occur from these areas during the eight-month period from October 1 to May 31.*

D. The volume determined by multiplying the total roof, farmstead, and driveway draining into the control system by the average runoff expected to occur from these areas during the eight-month period from October 1 to May 31.*

E. The volume of process wastewater which drains into the control system during the eight-month period from October 1 through May 31.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the eight-month period from October 1 through May 31.

*Expected 25-year, 24-hour runoff and average runoff for the eight-month period from October 1 through May 31 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

2. Feedlot Runoff Control System: At a minimum, accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application during the periods April 1 through May 31 and October 1 through November 30.

During each of these periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage capacity.

A feedlot operator may dispose of accumulated open feedlot effluent during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during the April/May and October/November periods, the feedlot operator will still need to dispose of sufficient open feedlot effluent during these periods to reduce the open feedlot effluent volume remaining in the runoff control system during these periods to less than 10 percent of the system's design open feedlot effluent storage capacity.

Land application of open feedlot effluent shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for open feedlot effluent application if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

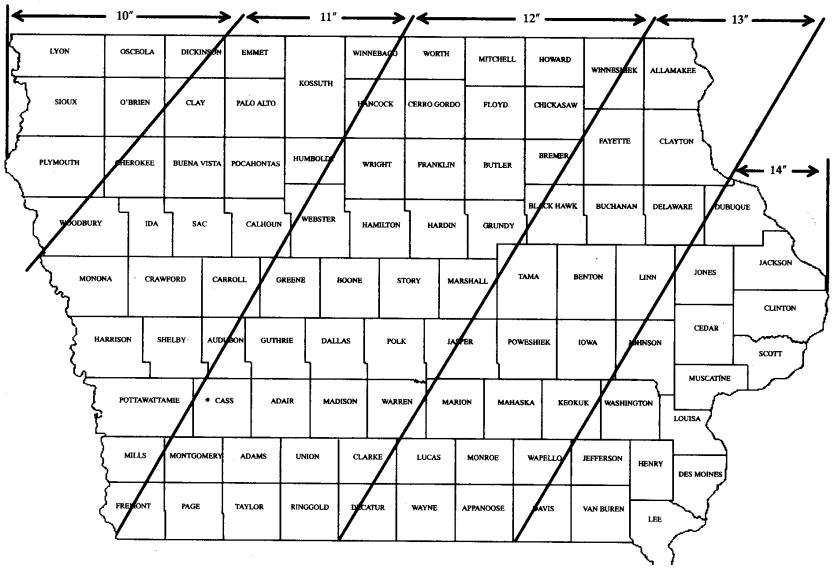

FIGURE 1. – Feedlot runoff value, in inches, for determining required capacity of the "System 1: One Open Feedlot Effluent Application Period Per Year" manure control system.

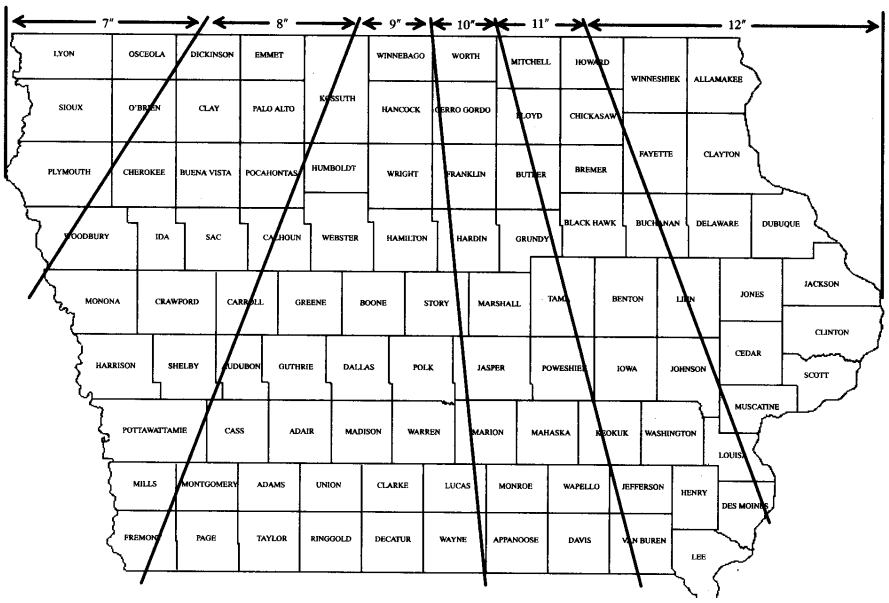

FIGURE 2. – Feedlot runoff value, in inches, for determining required capacity of the "System 2: July and October Open Feedlot Effluent Application" manure control system.

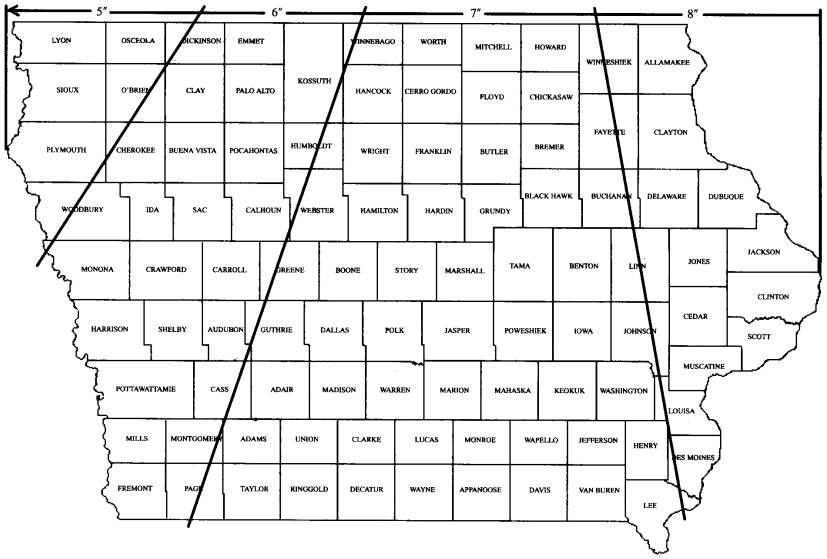

FIGURE 3. – Feedlot runoff value, in inches, for determining required capacity of the "System 3: April, July, and October Open Feedlot Effluent Application" manure control system.

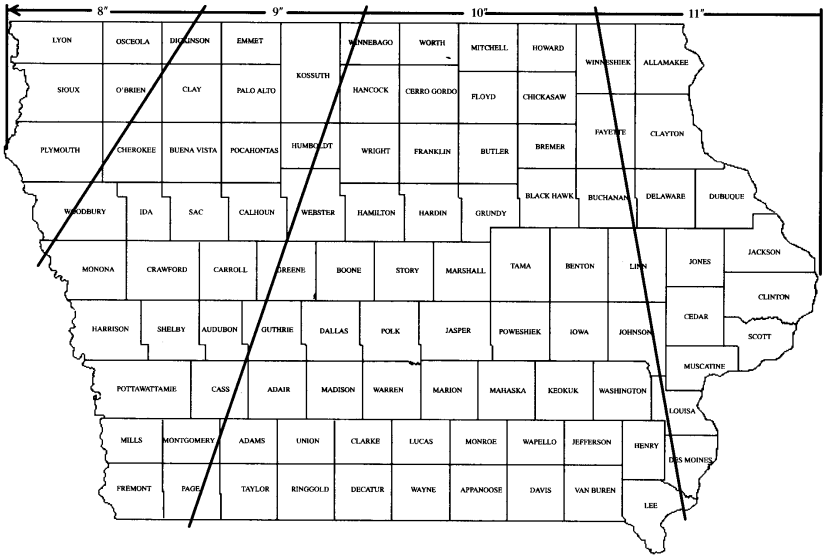

FIGURE 4. – Feedlot runoff value, in inches, for determining required capacity of the "System 5: April/May and October/November Open Feedlot Effluent Application" manure control system.

APPENDIX B
LAND DISPOSAL OF ANIMAL MANURE
Rescinded IAB 2/14/96, effective 3/20/96

APPENDIX C

MASTER MATRIX

Proposed Site Characteristics

The following scoring criteria apply to the site of the proposed confinement feeding operation. Mark one score under each criterion selected by the applicant. The proposed site must obtain a minimum overall score of 440 and a score of 53.38 in the "air" subcategory, a score of 67.75 in the "water" subcategory and a score of 101.13 in the "community impacts" subcategory.

1. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
* Residence not owned by the owner of the confinement feeding operation,
* Hospital,
* Nursing home, or
* Licensed or registered child care facility.

	Score	Air	Water	Community
250 feet to 500 feet	25	16.25		8.75
501 feet to 750 feet	45	29.25		17.50
751 feet to 1,000 feet	65	42.25		22.75
1,001 feet to 1,250 feet	85	55.25		29.75
1,251 feet or more	100	65.00		35.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
(C) "Licensed or registered child care facility" - a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.
(D) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

2. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest public use area.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) "Public use area" - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 of 567—Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

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3. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
* Educational institution,
* Religious institution, or
* Commercial enterprise.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) The department will award points only for the single building, of the three listed above, closest to the proposed confinement feeding operation.
(C) "Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.
(D) "Religious institution" - a building in which an active congregation is devoted to worship.
(E) "Commercial enterprise" - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

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4. Additional separation distance, above the minimum requirement of 500 feet, from proposed confinement structure to the closest water source.

	Score	Air	Water	Community
250 feet to 500 feet	5		5.00	
501 feet to 750 feet	10		10.00	
751 feet to 1,000 feet	15		15.00	
1,001 feet to 1,250 feet	20		20.00	
1,251 feet to 1,500 feet	25		25.00	
1,501 feet or more	30		30.00	

"Water source" - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.

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5. Separation distance of 300 feet or more from the proposed confinement structure to the nearest thoroughfare.

	Score	Air	Water	Community
300 feet or more	30	9.00		21.00

(A) "Thoroughfare" - a road, street, bridge, or highway open to the public and constructed or maintained by the state or a political subdivision.
(B) The 300-foot distance includes the 100-foot minimum setback plus an additional 200 feet.

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6. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest critical public area.

	Score	Air	Water	Community
500 feet or more	10	4.00		6.00

(A) All critical public areas as defined in 567—65.1(455B) are public use areas and therefore subject to public use area minimum separation distances.
(B) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

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7. Proposed confinement structure is at least two times the minimum required separation distance from all private and public water wells.

	Score	Air	Water	Community
Two times the minimum separation distance	30		24.00	6.00

Refer to Table 6 of 567—Chapter 65 for minimum required separation distances to wells.

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8. Additional separation distance, above the minimum requirement of 1,000 feet, from proposed confinement structure to the closest:
* Agricultural drainage well,
* Known sinkhole, or
* Major water source.

	Score	Air	Water	Community
250 feet to 500 feet	5	0.50	2.50	2.00
501 feet to 750 feet	10	1.00	5.00	4.00
751 feet to 1,000 feet	15	1.50	7.50	6.00
1,001 feet to 1,250 feet	20	2.00	10.00	8.00
1,251 feet to 1,500 feet	25	2.50	12.50	10.00
1,501 feet to 1,750 feet	30	3.00	15.00	12.00
1,751 feet to 2,000 feet	35	3.50	17.50	14.00
2,001 feet to 2,250 feet	40	4.00	20.00	16.00
2,251 feet to 2,500 feet	45	4.50	22.50	18.00
2,501 feet or more	50	5.00	25.00	20.00

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.
(B) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
(C) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567—Chapter 65.

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9. Distance between the proposed confinement structure and the nearest confinement facility that has a submitted department manure management plan.

	Score	Air	Water	Community
Three-quarters of a mile or more (3,960 feet)	25	7.50	7.50	10.00

Confinement facilities include swine, poultry, and dairy and beef cattle.

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10. Separation distance from proposed confinement structure to closest:
* High quality (HQ) waters,
* High quality resource (HQR) waters, or
* Protected water areas (PWA)
is at least two times the minimum required separation distance.

	Score	Air	Water	Community
Two times the minimum separation distance	30		22.50	7.50

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.
(B) HQ waters are identified in 567—Chapter 61.
(C) HQR waters are identified in 567—Chapter 61.
(D) A listing of PWAs is available at http://www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in.

11. Air quality modeling results demonstrating an annoyance level less than 2 percent of the time for residences within two times the minimum separation distance.

	Score	Air	Water	Community
University of Minnesota OFFSET model results demonstrating an annoyance level less than 2 percent of the time	10	6.00		4.00

(A) OFFSET can be found at http://www.extension.umn.edu/distribution/livestocksystems/DI7680.html. For more information, contact Dr. Larry Jacobson, University of Minnesota, (612)625-8288, jacob007@tc.umn.edu.
(B) A residence that has a signed waiver for the minimum separation distance cannot be included in the model.
(C) Only the OFFSET model is acceptable until the department recognizes other air quality models.

12. Liquid manure storage structure is covered.

	Score	Air	Water	Community
Covered liquid manure storage	30	27.00		3.00

(A) "Covered" - organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.
(B) The design, operation and maintenance plan for the manure cover must be in the construction permit application and made a condition in the approved construction permit.

13. Construction permit application contains design, construction, operation and maintenance plan for emergency containment area at manure storage structure pump-out area.

	Score	Air	Water	Community
Emergency containment area	20		18.00	2.00

(A) The emergency containment area must be able to contain at least 5 percent of the total volume capacity of the manure storage structure.
(B) The emergency containment area must be constructed on soils that are fine-grained and have low permeability.
(C) If manure is spilled into the emergency containment area, the spill must be reported to the department within six hours of onset or discovery.
(D) The design, construction, operation and maintenance plan for the emergency containment area must be in the construction permit application and made a condition in the approved construction permit.

14. Installation of a filter(s) designed to reduce odors from confinement building(s) exhaust fan(s).

	Score	Air	Water	Community
Installation of filter(s)	10	8.00		2.00

The design, operation and maintenance plan for the filter(s) must be in the construction permit application and made a condition in the approved construction permit.

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15. Utilization of landscaping around confinement structure.

	Score	Air	Water	Community
Utilization of landscaping	20	10.00		10.00

The design, operation and maintenance plan for the landscaping must be in the construction permit application and made a condition in the approved construction permit. The design should contain at least three rows of trees and shrubs, of both fast- and slow-growing species that are well suited for the site.

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16. Enhancement, above minimum requirements, of structures used in stockpiling and composting activities, such as an impermeable pad and a roof or cover.

	Score	Air	Water	Community
Stockpile and compost facility enhancements	30	9.00	18.00	3.00

(A) The design, operation and maintenance plan for the stockpile or compost structure enhancements must be in the construction permit application and made a condition in the approved construction permit.
(B) The stockpile or compost structures must be located on land adjacent or contiguous to the confinement building.

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17. Proposed manure storage structure is formed.

	Score	Air	Water	Community
Formed manure storage structure	30		27.00	3.00

(A) "Formed manure storage structure" - a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.
(B) The design, operation and maintenance plan for the formed manure storage structure must be in the construction permit application and made a condition in the approved construction permit.

18. Manure storage structure is aerated to meet departmental standards as an aerobic structure, if aeration is not already required by the department.

	Score	Air	Water	Community
Aerated manure storage structure	10	8.00		2.00

(A) "Aerobic structure" - an animal feeding operation structure other than an egg washwater storage structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.
(B) The design, operation and maintenance plan for the aeration equipment must be in the construction permit application and made a condition in the approved construction permit.

19. Proposed confinement site has a suitable truck turnaround area so that semitrailers do not have to back into the facility from the road.

	Score	Air	Water	Community
Truck turnaround	20			20.00

(A) The design, operation and maintenance plan for the truck turnaround area must be in the construction permit application and made a condition in the approved construction permit.
(B) The turnaround area should be at least 120 feet in diameter and be adequately surfaced for traffic in inclement weather.

20. Construction permit applicant's animal feeding operation environmental and worker protection violation history for the last five years at all facilities in which the applicant has an interest.

	Score	Air	Water	Community
No history of Administrative Orders in last five years	30			30.00

(A) "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.
(B) An environmental violation is a final Administrative Order (AO) from the department or final court ruling against the construction permit applicant for environmental violations related to an animal feeding operation. A Notice of Violation (NOV) does not constitute a violation.

21. Construction permit applicant waives the right to claim a Pollution Control Tax Exemption for the life of the proposed confinement feeding operation structure.

	Score	Air	Water	Community
Permanent waiver of Pollution Control Tax Exemption	5			5.00

(A) Waiver of Pollution Control Tax Exemption is limited to the proposed structure(s) in the construction permit application.
(B) The department and county assessor will maintain a record of this waiver, and it must be in the construction permit application and made a condition in the approved construction permit.

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22. Construction permit applicant can lawfully claim a Homestead Tax Exemption on the site where the proposed confinement structure is to be constructed
- OR -
the construction permit applicant is the closest resident to the proposed confinement structure.

	Score	Air	Water	Community
Site qualifies for Homestead Tax Exemption or permit applicant is closest resident to proposed structure	25			25.00

(A) Proof of Homestead Tax Exemption is required as part of the construction permit application.
(B) Applicant includes persons who have ownership interests. "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

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23. Construction permit applicant can lawfully claim a Family Farm Tax Credit for agricultural land where the proposed confinement feeding operation is to be located pursuant to Iowa Code chapter 425A.

	Score	Air	Water	Community
Family Farm Tax Credit qualification	25			25.00

Applicant includes persons who have ownership interests. "Interest" - ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

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24. Facility size.

	Score	Air	Water	Community
1 to 2,000 animal unit capacity	20			20.00
2,001 to 3,000 animal unit capacity	10			10.00
3,001 animal unit capacity or more	0			0.00

(A) Refer to the construction permit application package to determine the animal unit capacity of the proposed confinement structure at the completion of construction.
(B) If the proposed structure is part of an expansion, animal unit capacity (or animal weight capacity) must include all animals confined in adjacent confinement structures.
(C) Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:
(a) At least one confinement feeding operation structure must be constructed on and after May 21, 1998.
(b) A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:
(1) 1,250 feet for confinement feeding operations having a combined animal unit capacity of less than 1,000 animal units.
(2) 2,500 feet for confinement feeding operations having a combined animal unit capacity of 1,000 animal units or more.

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25. Construction permit application includes livestock feeding and watering systems that significantly reduce manure volume.

	Score	Air	Water	Community
Wet/dry feeders or other feeding and watering systems that significantly reduce manure volume	25		12.50	12.50

The design, operation and maintenance plan for the feeding system must be in the construction permit application and made a condition in the approved construction permit.

Proposed Site Operation and Manure Management Practices

The following scoring criteria apply to the operation and manure management characteristics of the proposed confinement feeding operation. Mark one score under each criterion that best reflects the characteristics of the submitted manure management plan.

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26. Liquid or dry manure (choose only one subsection from subsections "a" - "e" and mark only one score in that subsection).

		Score	Air	Water	Community
a.	Bulk dry manure is sold under Iowa Code chapter 200A and surface-applied	15		15.00	
	Bulk dry manure is sold under Iowa Code chapter 200A and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
b.	Dry manure is composted and land-applied under the requirements of a manure management plan	10	4.00	4.00	2.00
	Dry manure is composted and sold so that no manure is applied under the requirements of a manure management plan	30	12.00	12.00	6.00

c.

Methane digester is used to generate energy from manure and remaining manure is surface-applied under the requirements of a manure management plan	10	3.00	3.00	4.00
After methane digestion is complete, manure is injected or incorporated on the same date it is land-applied under the requirements of a manure management plan	30	12.00	12.00	6.00

d.

Dry manure is completely burned to generate energy and no remaining manure is applied under the requirements of a manure management plan	30	9.00	9.00	12.00
Some dry manure is burned to generate energy, but remaining manure is land-applied and incorporated on the same date it is land-applied	30	12.00	12.00	6.00

e.

Injection or incorporation of manure on the same date it is land-applied	30	12.00	12.00	6.00

(A) Choose only ONE line from subsection "a," "b," "c," "d," or "e" above and mark only one score in that subsection.
(B) The injection or incorporation of manure must be in the construction permit application and made a condition in the approved construction permit.
(C) If an emergency arises and injection or incorporation is not feasible, prior to land application of manure, the applicant must receive a written approval for an emergency waiver from a department field office to surface-apply manure.
(D) Requirements pertaining to the sale of bulk dry manure pursuant to Iowa Code chapter 200A must be incorporated into the construction permit application and made a condition of the approved construction permit.
(E) The design, operation and maintenance plan for utilization of manure as an energy source must be in the construction permit application and made a condition in the approved construction permit.
(F) The design, operation and maintenance plan for composting facilities must be in the construction permit application and made a condition in the approved construction permit.

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27. Land application of manure is based on a two-year crop rotation phosphorus uptake level.

	Score	Air	Water	Community
Two-year phosphorus crop uptake application rate	10		10.00	

(A) Land application of manure cannot exceed phosphorus crop usage levels for a two-year crop rotation cycle.
(B) The phosphorus uptake application rates must be in the construction permit application and made a condition in the approved construction permit.

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28. Land application of manure to farmland that has USDA Natural Resources Conservation Service (NRCS)-approved buffer strips contiguous to all water sources traversing or adjacent to the fields listed in the manure management plan.

	Score	Air	Water	Community
Manure application on farmland with buffer strips	10		8.00	2.00

(A) The department may request NRCS maintenance agreements to ensure proper design, installation and maintenance of filter strips. If a filter strip is present but not designed by NRCS, it must meet NRCS standard specifications.
(B) The application field does not need to be owned by the confinement facility owner to receive points.
(C) On current and future manure management plans, the requirement for buffer strips on all land application areas must be in the construction permit application and made a condition in the approved construction permit.

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29. Land application of manure does not occur on highly erodible land (HEL), as classified by the USDA NRCS.

	Score	Air	Water	Community
No manure application on HEL farmland	10		10.00	

Manure application on non-HEL farmland must be in the construction permit application and made a condition in the approved construction permit.

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30. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:
* Residence not owned by the owner of the confinement feeding operation,
* Hospital,
* Nursing home, or
* Licensed or registered child care facility.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	3.25		1.75
Additional separation distance of 500 feet	10	6.50		3.50

(A) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.
(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.
(E) "Licensed or registered child care facility" - a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.
(F) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

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31. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for land application of manure to closest public use area.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) "Public use area" - a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes as listed in Table 2 in 567—Chapter 65, and swimming beaches. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.
(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.
(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

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32. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:
* Educational institution,
* Religious institution, or
* Commercial enterprise.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(B) Minimum separation distance for land application of manure injected or incorporated on same date as application: 0 feet.
(C) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.
(D) "Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.
(E) "Religious institution" - a building in which an active congregation is devoted to worship.
(F) "Commercial enterprise" - a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

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33. Additional separation distance of 50 feet, above minimum requirements (0 or 200 feet, see below), for the land application of manure to the closest private drinking water well or public drinking water well
- OR -
well is properly closed under supervision of county health officials.

	Score	Air	Water	Community
Additional separation distance of 50 feet or well is properly closed	10		8.00	2.00

(A) Minimum separation distance for land application of manure injected or incorporated on the same date as application or 50-foot vegetation buffer exists around well and manure is not applied to the buffer: 0 feet.
(B) Minimum separation distance for land application of manure broadcast on soil surface: 200 feet.
(C) If applicant chooses to close the well, the well closure must be incorporated into the construction permit application and made a condition in the approved construction permit.

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34. Additional separation distance, above minimum requirements, for the land application of manure to the closest:
* Agricultural drainage well,
* Known sinkhole,
* Major water source, or
* Water source.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	0.50	2.50	2.00
Additional separation distance of 400 feet	10	1.00	5.00	4.00

(A) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
(B) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Tables 1 and 2 in 567—Chapter 65.
(C) "Water source" - a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without an outlet to which only one landowner is riparian.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

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35. Additional separation distance, above minimum requirements, for the land application of manure, to the closest:
* High quality (HQ) water,
* High quality resource (HQR) water, or
* Protected water area (PWA).

	Score	Air	Water	Community
Additional separation distance of 200 feet	5		3.75	1.25
Additional separation distance of 400 feet	10		7.50	2.50

(A) HQ waters are identified in 567—Chapter 61.
(B) HQR waters are identified in 567—Chapter 61.
(C) A listing of PWAs is available at http://www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in.

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36. Demonstrated community support.

	Score	Air	Water	Community
Written approval of 100 percent of the property owners within a one-mile radius	20			20.00

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37. Worker safety and protection plan is submitted with the construction permit application.

	Score	Air	Water	Community
Submission of worker safety and protection plan	10			10.00

(A) The worker safety and protection plan must be in the construction permit application and made a condition in the approved construction permit.
(B) The worker safety and protection plan and subsequent records must be kept on site with the manure management plan records.

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38. Applicant signs a waiver of confidentiality allowing the public to view confidential manure management plan land application records.

	Score	Air	Water	Community
Manure management plan confidentiality waiver	5			5.00

The waiver of confidentiality must be in the construction permit application and made a condition in the approved construction permit. The applicant may limit public inspection to reasonable times and places.

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39. Added economic value based on quality job development (number of full-time equivalent (FTE) positions), and salary equal to or above Iowa department of workforce development median (45-2093)
- OR -
the proposed structure increases commercial property tax base in the county.

	Score	Air	Water	Community
Economic value to local community	10			10.00

The Iowa department of workforce development regional profiles are available at http://www.iowaworkforce.org/centers/regionalsites.htm. Select the appropriate region and then select "Regional Profile."

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40. Construction permit application contains an emergency action plan.

	Score	Air	Water	Community
Emergency action plan	5		2.50	2.50

(A) Iowa State University Extension publication PM 1859 lists the components of an emergency action plan. The emergency action plan submitted should parallel the components listed in the publication.
(B) The posting and implementation of an emergency action plan must be in the construction permit application and made a condition in the approved construction permit.
(C) The emergency action plan and subsequent records must be kept on site with the manure management plan records.

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41. Construction permit application contains a closure plan.

	Score	Air	Water	Community
Closure plan	5		2.50	2.50

(A) The closure plan must be in the construction permit application and made a condition in the approved construction permit.
(B) The closure plan must be kept on site with the manure management plan records.

42. Adoption and implementation of an environmental management system (EMS) recognized by the department.

	Score	Air	Water	Community
EMS	15	4.50	4.50	6.00

(A) The EMS must be in the construction permit application and made a condition in the approved construction permit.
(B) The EMS must be recognized by the department as an acceptable EMS for use with confinement operations.

43. Adoption and implementation of NRCS-approved Comprehensive Nutrient Management Plan (CNMP).

	Score	Air	Water	Community
CNMP	10	3.00	3.00	4.00

The implementation and continuation of a CNMP must be in the construction permit application and made a condition in the approved construction permit.

44. Groundwater monitoring wells installed near manure storage structure, and applicant agrees to provide data to the department.

	Score	Air	Water	Community
Groundwater monitoring	15		10.50	4.50

(A) Monitoring well location, sampling and data submission must meet department requirements.
(B) The design, operation and maintenance plan for the groundwater monitoring wells, and data transfer to the department, must be in the construction permit application and made a condition in the approved construction permit.

	Total Score	Air	Water	Community
Minimum score to pass:	440	53.38	67.75	101.13

APPENDIX D
DESIGN SPECIFICATIONS—FORMED MANURE STORAGE STRUCTURES

The following design specifications apply to a formed manure storage structure that is constructed belowground, is laterally braced and is not designed using MWPS-36 or by a PE or an NRCS engineer:

(1) The walls of a rectangular formed structure with a depth up to 12 feet shall be designed in accordance with the tables provided in this appendix.

(2) Consideration shall be given to internal and external loads including, but not limited to, lateral earth pressures, hydrostatic pressures, wind loads, and floor or cover, building and equipment loads.

(3) Each wall shall be braced laterally at the top of the wall.

(4) The walls shall be constructed above the groundwater table, or a drain tile shall be installed to artificially lower the groundwater table.

(5) Each wall that includes a pumpout port shall be constructed under the design consideration that vehicles will be operating within 5 feet of the wall as provided in Tables D-2 and D-4.

(6) Minimum wall thickness and minimum vertical steel reinforcement shall be in accordance with one of the following:

(a) Table D-1, if **all** of the following conditions are met:

1. There will be NO VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with gravel, sand, silt, and clay mixtures (less than 50 percent fines), with coarse sand with silt or clay (less than 50 percent fines), or cleaner granular material (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-1
Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	14.5	#4	18.0
		#5	18.0	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	9.5	#4	13.5
		#5	14.5	#5	18.0
8	10	#4	9.5	#4	11.0
		#5	15.0	#5	17.0
10	8	#4	6.5	#4	9.5
		#5	10.0	#5	13.5
10	10	#4	6.5	#4	9.5
		#5	10.0	#5	15.0
12	10	#4	5.0	#4	7.5
		#5	7.5	#5	11.5

(b) Table D-2, if **all** of the following conditions are met:

1. There will be VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with gravel, sand, silt, and clay mixtures (less than 50 percent fines), with coarse sand with silt or clay (less than 50 percent fines), or cleaner granular material (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-2

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	10.5	#4	15.5
		#5	16.5	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	6.5	#4	10.0
		#5	10.5	#5	16.0
8	10	#4	8.5	#4	11.0
		#5	13.5	#5	17.0
10	8	#4	4.5	#4	6.5
		#5	7.0	#5	10.5
10	10	#4	5.0	#4	7.5
		#5	8.0	#5	12.0
12	10	#4	3.5	#4	5.5
		#5	5.5	#5	8.5

(c) Table D-3, if **all** of the following conditions are met:

1. There will be NO VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with low plasticity silts and clays with some sand or gravel (50 percent or more fines); or fine sands with silt or clay (less than 50 percent fines); or low to medium plasticity silts and clays with little sand or gravel (50 percent or more fines); or high plasticity silts and clays (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-3

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	10.5	#4	15.5
		#5	16.5	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	6.5	#4	10.0
		#5	10.5	#5	16.0
8	10	#4	9.0	#4	11.0
		#5	14.0	#5	17.0
10	8	#4	4.5	#4	6.5
		#5	7.0	#5	10.0
10	10	#4	5.0	#4	7.5
		#5	8.0	#5	12.0
12	10	#4	3.5	#4	5.0
		#5	5.5	#5	8.0

(d) Table D-4, if **all** of the following conditions are met:

1. There will be VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with low plasticity silts and clays with some sand or gravel (50 percent or more fines); or fine sands with silt or clay (less than 50 percent fines); or low to medium plasticity silts and clays with little sand or gravel (50 percent or more fines); or high plasticity silts and clays (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-4

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	8.0	#4	12.0
		#5	12.5	#5	16.5
6	8	#4	9.5	#4	13.5
		#5	15.0	#5	18.0
8	8	#4	6.0	#4	9.0
		#5	9.0	#5	11.5
8	10	#4	6.0	#4	9.0
		#5	9.5	#5	14.0
10	8	#4	3.0	#4	4.5
		#5	4.5	#5	7.0
10	10	#4	4.5	#4	6.5
		#5	6.5	#5	10.0
12	10	#4	2.5	#4	4.0
		#5	4.0	#5	6.0

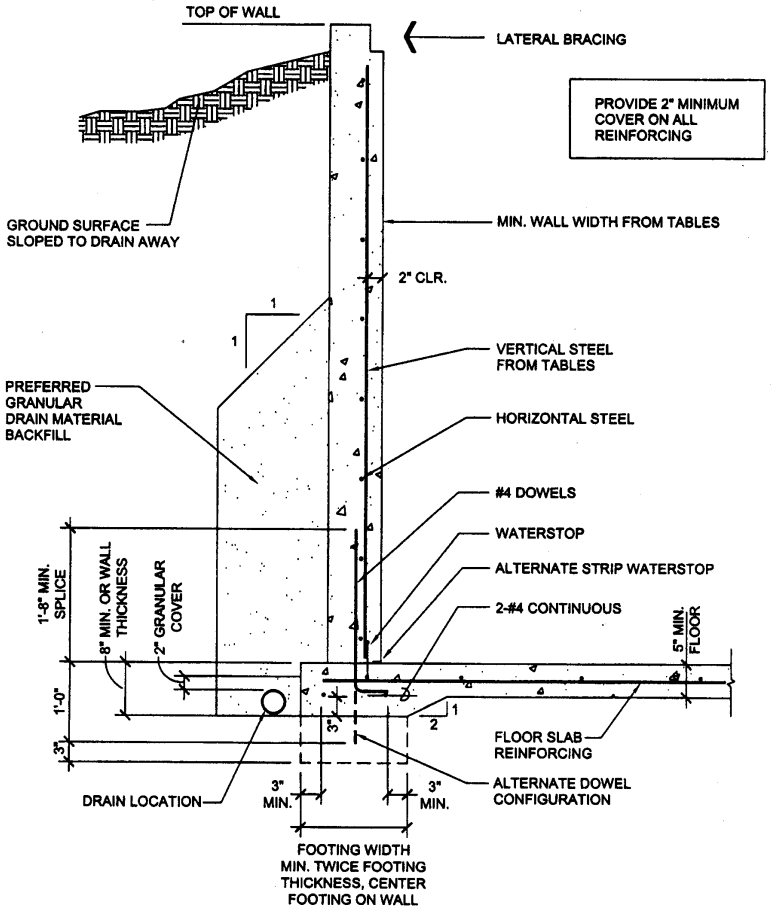
(7) Minimum horizontal steel for a rectangular tank shall be selected and placed according to Table D-5, regardless of wall height, and shall be tied to the soil side of vertical steel:

APPENDIX D, TABLE D-5

Minimum Wall Horizontal Steel Reinforcement

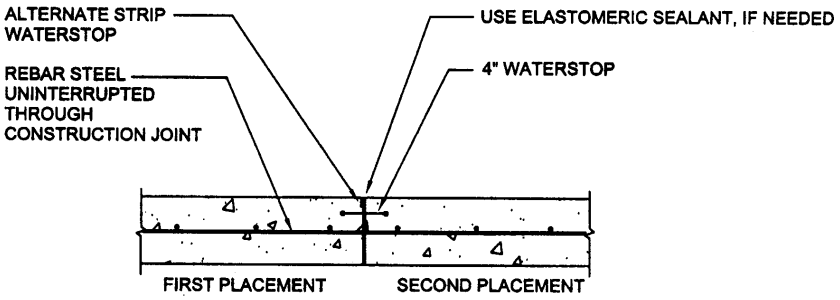
Wall thickness (inches)	Steel Grade			
	Grade 40		Grade 60	
	Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
6	#4	16.5	#4	18.0
	#5	18.0	#5	18.0
8	#4	12.0	#4	13.5
	#5	18.0	#5	18.0
10	#4	9.5	#4	11.0
	#5	15.0	#5	17.0

APPENDIX D, FIGURE D-1
MONOLITHIC FOOTING FLOOR DETAIL



NOTE: For a more detailed version of this figure, contact the department, animal feeding operations.

APPENDIX D, FIGURE D-2
WALL AND FLOOR CONSTRUCTION JOINT



NOTE: For a more detailed version of this figure, contact the department, animal feeding operations.

TABLE 1

Major Water Sources—Rivers and Streams

County	River/Stream	Location
Adair	Bush Branch	East county line (S13, T75N, R30W) to confluence with unnamed tributary (S13, T75N, R30W)
	Middle Nodaway River	South county line (S31, T74N, R33W) to Hwy. 92 (S14, T75N, R32W)
	Middle River	East county line (S36, T76N, R30W) to north county line (S1, T77N, R32W)
	North Turkey Creek	Mouth (S35, T77N, R31W) to confluence with South Turkey Creek (S33, T77N, R31W)
	Shanghai Creek	South county line (S34, T74N, R32W) to confluence with unnamed tributary (SW1/4, S34, T74N, R32W)
	Thompson River	East county line (S12, T74N, R30W) to confluence with Ninemile Creek (S35, T75N, R30W)
	West Fork Middle Nodaway River	Mouth (S33, T74N, R33W) to County Road N51 (S20, T76N, R33W)
Adams	East Nodaway River	South county line (S31, T71N, R35W) to confluence with Shanghai Creek (S16, T73N, R32W)
	Middle Nodaway River	West county line (S31, T72N, R35W) to north county line (S6, T73N, R33W)
	Platte River	East line (S24, T71N, R32W) to east line (S36, T72N, R32W)
	Shanghai Creek	Mouth (S16, T73N, R32W) to north county line (S3, T73N, R32W)
Allamakee	Bear Creek	Mouth (S1, T99N, R06W) to west county line (S30, T100N, R06W)
	Mississippi River	South county line (S34, T96N, R03W) to north county line (S8, T100N, R03W)
	Paint Creek	Mouth (S9, T99N, R06W) to west county line (S18, T99N, R06W)

County	River/Stream	Location
	Paint Creek	Mouth (S15, T96N, R03W) to road crossing (S18, T97N, R04W)
	Upper Iowa River	Mouth (S19, T100N, R03W) to west county line (S31, T99N, R06W)
	Village Creek	Mouth (S33, T99N, R03W) to confluence with Erickson Spring Branch (S23, T98N, R04W)
	Waterloo Creek	Mouth (S35, T100N, R06W) to north county line (S04, T100N, R06W)
	Winnebago Creek	Mouth (S12, T100N, R04W) to north county line (S1, T100N, R04W)
	Yellow River	Mouth (S34, T96N, R03W) to west county line (S18, T96N, R06W)
Appanoose	Chariton River	South county line (S21, T67N, R16W) to west county line (S6, T70N, R19W)
	Packard Creek	Mouth (S8, T67N, R16W) to confluence with Pigeon Creek (S6, T67N, R16W)
	Soap Creek	East county line (S13, T70N, R16W) to north county line (S4, T70N, R16W)
	South Fork Chariton River	Lake Rathbun (S14, T70N, R19W) to west county line (S31, T70N, R19W)
	South Soap Creek	East county line (S25, T70N, R16W) to Lake Sundown (S29, T70N, R16W)
	Walnut Creek	Mouth (S1, T69N, R18W) to confluence with Little Walnut Creek (S1, T69N, R18W)
Audubon	Brushy Creek	East county line (S1, T81N, R34W) to north county line (S1, T81N, R34W)
	East Branch West Nishnabotna River	West county line (S18, T80N, R36W) to confluence with unnamed tributary (NW 1/4, S19, T81N, R35W)
	East Nishnabotna River	South county line (S36, T78N, R36W) to confluence with unnamed tributary (NW 1/4, S12, T81N, R35W)
	Troublesome Creek	South county line (S35, T78N, R35W) to east county line (S36, T79N, R34W)
Benton	Bear Creek	North county line (S1, T86N, R10W) to mouth (S21, T86N, R10W)
	Bear Creek	East county line (S13, T84N, R09W) to confluence of Wildcat Creek and Opossum Creek (S8, T84N, R09W)
	Blue Creek	East county line (S24, T86N, R09W) to confluence with West Branch Blue Creek (S24, T86N, R09W)
	Cedar River	East county line (S13, T85N, R09W) to north county line (S6, T86N, R10W)
	Iowa River	South county line (S31, T82N, R12W) to west county line (S31, T82N, R12W)
	Prairie Creek	Confluence with unnamed tributary (middle of S 1/2, S13, T83N, R12W) to east county line (S12, T82N, R09W)
	Salt Creek	Mouth (S6, T82N, R12W) to west county line (S6, T82N, R12W)

County	River/Stream	Location
	Walnut Creek	Mouth (S6, T82N, R12W) to south county line (S6, T82N, R12W)
	Wolf Creek	North county line (S2, T86N, R12W) to west county line (S19, T86N, R12W)
Black Hawk	Beaver Creek	Mouth (S34, T90N, R14W) to west county line (S31, T90N, R14W)
	Black Hawk Creek	Mouth (S22, T89N, R13W) to west county line (S6, T87N, R14W)
	Buck Creek	East county line (S12, T90N, R11W) to north county line (S1, T90N, R11W)
	Cedar River	East county line (S36, T87N, R11W) to north county line (S2, T90N, R14W)
	Crane Creek	Mouth (S26, T90N, R11W) to north county line (S3, T90N, R12W)
	Miller Creek	Mouth (S2, T87N, R12W) to confluence with unnamed tributary (NE 1/4, S24, T87N, R13W)
	Shell Rock River	Mouth (S4, T90N, R14W) to north county line (S4, T90N, R14W)
	Spring Creek	Mouth (S34, T87N, R11W) to confluence with East Branch Spring Creek (S11, T87N, R11W)
	Wapsipinicon River	East county line (S1, T89N, R11W) to north county line (S4, T90N, R11W)
	West Fork Cedar River	Mouth (S16, T90N, R14W) to west county line (S7, T90N, R14W)
	Wolf Creek	Mouth (S29, T87N, R11W) to south county line (S35, T87N, R12W)
Boone	Beaver Creek	Confluence with Middle Beaver Creek (S21, T83N, R28W) to south county line (S35, T82N, R28W)
	Des Moines River	South county line (S34, T82N, R26W) to north county line (S3, T85N, R27W)
	Squaw Creek	North line (S9, T85N, R25W) to east county line (S12, T84N, R25W)
Bremer	Cedar River	South county line (S35, T91N, R14W) to north county line (S5, T93N, R14W)
	Crane Creek	South county line (S34, T91N, R12W) to north line (S9, T91N, R12W)
	Dry Run	Mouth (S33, T93N, R14W) to confluence with Horton Creek (S33, T93N, R14W)
	East Branch Wapsipinicon River	Mouth (S34, T93N, R12W) to north county line (S3, T93N, R12W)
	Little Wapsipinicon River	East county line (S13, T92N, R11W) to north line (S2, T92N, R11W)
	Quarter Section Run	Mouth (S19, T91N, R13W) to confluence with unnamed tributary (SW 1/4, S35, T91N, R13W)
	Shell Rock River	South county line (S33, T91N, R14W) to west county line (S18, T91N, R14W)
	Wapsipinicon River	South county line (S33, T91N, R11W) to north county line (S1, T93N, R13W)

County	River/Stream	Location
Buchanan	Buck Creek	Mouth (S32, T90N, R10W) to west county line (S7, T90N, R10W)
	Buffalo Creek	East county line (S13, T87N, R07W) to confluence of East and West Branches (S35, T90N, R08W)
	Cedar River	South county line (S31, T87N, R10W) to west county line (S31, T87N, R10W)
	Little Wapsipinicon River	Mouth (S9, T89N, R10W) to north county line (S5, T90N, R10W)
	Otter Creek	Mouth (S19, T89N, R09W) to north county line (S4, T90N, R09W)
	South Fork Maquoketa River	East county line (S24, T90N, R07W) to confluence with Lamont Creek (S23, T90N, R07W)
	Wapsipinicon River	South county line (S31, T87N, R07W) to west county line (S6, T89N, R10W)
Buena Vista	Little Sioux River	North county line (S2, T93N, R38W) to north county line (S5, T93N, R36W)
	North Raccoon River	South county line (S36, T90N, R36W) to north line (S15, T91N, R36W)
Butler	Beaver Creek	East county line (S36, T90N, R15W) to west county line (S31, T90N, R18W)
	Boylan Creek	Mouth (S1, T91N, R18W) to confluence with Parmentar Creek (S14, T92N, R18W)
	Coldwater Creek	Mouth (S29, T93N, R16W) to west line (S5, T93N, R17W)
	Flood Creek	Mouth (S27, T93N, R16W) to north county line (S3, T93N, R16W)
	Hartgrave Creek	Mouth (S34, T92N, R18W) to west county line (S30, T92N, R18W)
	Johnson Creek	West county line (S19, T91N, R18W) to mouth (S20, T90N, R16W)
	Maynes Creek	West county line (S18, T91N, R18W) to mouth (S7, T91N, R17W)
	Shell Rock River	East county line (S13, T91N, R15W) to north county line (S2, T93N, R17W)
	South Beaver Creek	Mouth (S25, T90N, R17W) to south county line (S35, T90N, R17W)
	West Fork Cedar River	East county line (S12, T90N, R15W) to west county line (S7, T92N, R18W)
Calhoun	Camp Creek	Mouth (S7, T86N, R34W) to west line (S25, T88N, R34W)
	Cedar Creek	South county line (S34, T86N, R32W) to confluence with West Cedar Creek (S31, T87N, R31W)
	Lake Creek	Mouth (S23, T86N, R34W) to north line (S25, T87N, R33W)
	North Raccoon River	South county line (S31, T86N, R33W) to west county line (S6, T86N, R34W)

County	River/Stream	Location
Carroll	Brushy Creek	South county line (S36, T82N, R34W) to confluence with Dedham Creek (S16, T82N, R34W)
	Middle Raccoon River	South county line (S34, T82N, R33W) to confluence with unnamed tributary (NW 1/4, NW 1/4, S6, T84N, R35W)
	North Raccoon River	East county line (S12, T84N, R33W) to north county line (S6, T85N, R33W)
	West Nishnabotna River	West county line (S31, T82N, R36W) to confluence with unnamed tributary (S34, T83N, R36W)
Cass	East Nishnabotna River	West county line (S31, T75N, R37W) to north county line (S1, T77N, R36W)
	Indian Creek	Mouth (S17, T75N, R37W) to north county line (S5, T77N, R37W)
	Sevenmile Creek	South county line (S31, T74N, R36W) to confluence with unnamed tributary (center of S32, T76N, R34W)
	Troublesome Creek	Mouth (S32, T77N, R36W) to north county line (S2, T77N, R35W)
	Turkey Creek	Mouth (S2, T75N, R37W) to confluence with Lone Tree Branch (S28, T76N, R36W)
	West Nodaway River	South county line (SW 1/4, S34, T74N, R36W) to confluence with Williams Creek (S35, T74N, R36W)
Cedar	Cedar River	South county line (S31, T79N, R02W) to west county line (S18, T81N, R04W)
	Mud Creek	South county line (S34, T79N, R01W) to south county line (S35, T79N, R01W)
	Rock Creek	Road crossing north line (S1, T81N, R03W) to mouth (S3, T79N, R03W)
	Sugar Creek	Road crossing north line (S29, T81N, R02W) to south county line (S34, T79N, R02W)
	Wapsipinicon River	East county line (S12, T82N, R01W) to north county line (S1, T82N, R01W)
	West Branch Wapsinonoc Creek	South county line (S33, T79N, R04W) to confluence with unnamed tributary (NE 1/4, S32, T79N, R04W)
Cerro Gordo	Beaverdam Creek	I-35 (S8, T95N, R21W) to south county line (S35, T94N, R20W)
	East Branch Beaverdam Creek	Hwy. 65 (S9, T94N, R20W) to mouth (S21, T94N, R20W)
	Shell Rock River	East county line (S12, T96N, R19W) to north county line (S5, T97N, R19W)
	Spring Creek	County Road B15 (S9, T97N, R20W) to mouth (S28, T97N, R20W)
	West Fork Cedar River	South county line (S35, T94N, R20W) to confluence of Beaverdam Creek and East Branch Beaverdam Creek (S21, T94N, R20W)

County	River/Stream	Location
	Willow Creek	Hwy. 18 (S12, T96N, R21W) to mouth (S3, T96N, R20W)
	Winnebago River	East county line (S36, T96N, R19W) to west county line (S19, T97N, R22W)
Cherokee	Gray Creek	North line (S22, T93N, R40W) to mouth (S10, T92N, R40W)
	Little Sioux River	South county line (S31, T90N, R41W) to north county line (S3, T93N, R39W)
	Maple Creek	Mouth (S5, T91N, R39W) to confluence with unnamed tributary (S1, T91N, R39W)
	Maple River	Confluence with Maple Creek (S5, T91N, R39W) to south county line (S34, T90N, R39W)
	Mill Creek	North county line (S3, T93N, R41W) to mouth (S14, T92N, R40W)
	Perry Creek	North line (S5, T91N, R40W) to mouth (S28, T91N, R40W)
	Rock Creek	East line (S4, T91N, R41W) to mouth (S10, T90N, R41W)
	Silver Creek	Mouth (S32, T91N, R40W) to north line (S34, T90N, R40W)
	West Fork Little Sioux River	North line (S12, T92N, R42W) to west county line (S31, T91N, R42W)
	Willow Creek	North line (S30, T91N, R41W) to mouth (S30, T90N, R41W)
Chickasaw	Cedar River	South county line (S32, T94N, R14W) to west county line (S7, T94N, R14W)
	Crane Creek	East county line (S25, T95N, R11W) to north county line (S21, T97N, R12W)
	East Branch Wapsipinicon River	South county line (S34, T94N, R12W) to confluence with Plum Creek (S15, T95N, R12W)
	Little Cedar River	Mouth (S20, T94N, R14W) to west county line (S6, T95N, R14W)
	Little Turkey River	East county line (S25, T96N, R11W) to north county line (S19, T97N, R11W)
	Little Wapsipinicon River	Mouth (S3, T94N, R13W) to north county line (S24, T97N, R14W)
	Wapsipinicon River	South county line (S36, T94N, R13W) to north county line (S20, T97N, R14W)
Clarke	Squaw Creek	North county line (S1, T73N, R25W) to confluence with Walnut Creek (S3, T73N, R25W)
	White Breast Creek	East county line (S1, T71N, R24W) to confluence with South White Breast Creek (S3, T71N, R24W)
Clay	Big Muddy Creek	Mouth (S15, T96N, R36W) to confluence with Little Muddy Creek (S10, T96N, R36W)
	Little Sioux River	West county line (S30, T94N, R38W) to north county line (S5, T97N, R37W)

County	River/Stream	Location
	Ocheyedan River	Mouth (S13, T96N, R37W) to west county line (S7, T97N, R38W)
	Stony Creek	Mouth (S7, T96N, R36W) to north county line (S3, T97N, R38W)
Clayton	Bloody Run	Mouth (S15, T95N, R03W) upstream to second road bridge crossing the stream in the western portion of Basil Giard Claim No. 1
	Cox Creek	Mouth (S21, T92N, R05W) to confluence with Kleinlein Creek (S36, T92N, R06W)
	Elk Creek	Mouth (S36, T92N, R04W) to south county line (S35, T91N, R04W)
	Howard Creek	Mouth (S25, T94N, R05W) to confluence with Dry Hollow (S19, T94N, R04W)
	Little Turkey River	Mouth (S10, T91N, R02W) to confluence with White Pine Hollow (S31, T91N, R02W)
	Maquoketa River	South county line (S32, T91N, R06W) to north line (S31, T91N, R06W)
	Mink Creek	Mouth (S30, T93N, R06W) to confluence with unnamed tributary (SW 1/4, S19, T93N, R06W)
	Mississippi River	East county line (S25, T91N, R01W) to north county line (S3, T95N, R03W)
	Roberts Creek	Mouth (S25, T93N, R05W) to confluence with Silver Creek (S16, T94N, R05W)
	Sny Magill Creek	Mouth (S23, T94N, R03W) upstream to confluence with North Cedar Creek (S8, T94N, R03W)
	South Cedar Creek	Mouth (S33, T92N, R03W) to confluence with unnamed tributary (SW 1/4, NE 1/4, SE 1/4, S7, T92N, R03W)
	Turkey River	Mouth (S12, T91N, R02W) to west county line (S18, T94N, R06W)
	Volga River	Mouth (S36, T92N, R04W) to west county line (S30, T93N, R06W)
Clinton	Brophys Creek	South line (S4, T81N, R05E) to mouth (S1,T80N, R04E)
	Deep Creek	North county line (S6, T83N, R05E) to confluence with Bear Creek (S8, T83N, R05E)
	Drainage Ditch 12	West line (S30, T82N, R02E) to mouth (S13,T81N, R01E)
	Elk River	South line (S5, T83N, R06E) to mouth (S20, T83N, R07E)
	Harts Mill Creek	East line (S8, T81N, R06E) to mouth (S15, T81N, R06E)
	Mill Creek	Confluence with Harts Mill Creek (S15, T81N, R06E) to mouth (S23, T81N, R06E)
	Mississippi River	South county line (S13, T80N, R05E) to north county line (S5, T83N, R07E)

County	River/Stream	Location
	Silver Creek	South line (S22, T82N, R03E) to mouth (S6, T80N, R04E)
	Wapsipinicon River	Mouth (S13, T80N, R05E) to west county line (S7, T82N, R01E)
Crawford	Boyer River	South county line (S34, T82N, R41W) to north county line (S6, T85N, R37W)
	East Boyer River	Mouth (S10, T83N, R39W) to confluence with unnamed tributary (NW 1/4, S15, T84N, R37W)
	East Soldier River	West county line (S31, T84N, R41W) to confluence with Emigrant Creek (S23, T84N, R41W)
	Soldier River	West county line (S30, T85N, R41W) to north county line (S1, T85N, R41W)
	West Fork West Nishnabotna River	South county line (S32, T82N, R38W) to confluence with unnamed tributary (NE 1/4, S14, T82N, R38W)
	West Nishnabotna River	South county line (S35, T82N, R37W) to east county line (S36, T82N, R37W)
Dallas	Beaver Creek	East county line (S13, T80N, R26W) to north county line (S2, T81N, R28W)
	Des Moines River	East county line (S25, T81N, R26W) to north county line (S3, T81N, R26W)
	Middle Raccoon River	Mouth (S9, T78N, R29W) to west county line (S31, T79N, R29W)
	Mosquito Creek	Mouth (S34, T79N, R29W) to west county line (NW 1/4, NW 1/4, S6, T80N, R29W)
	North Raccoon River	Mouth (S21, T78N, R27W) to north county line (S5, T81N, R29W)
	Raccoon River	East county line (S25, T78N, R26W) to confluence of North and South Raccoon Rivers (S21, T78N, R27W)
	South Raccoon River	Mouth (S21, T78N, R27W) to west county line (S7, T78N, R29W)
Davis	Chequest Creek	East county line (S12, T69N, R12W) to confluence with South Chequest Creek (S12, T69N, R12W)
	Des Moines River	East county line (S12, T70N, R12W) to north county line (S2, T70N, R12W)
	Fox River	East county line (S1, T68N, R12W) to confluence with South Fox Creek (S28, T69N, R15W)
	Soap Creek	Mouth (S2, T70N, R12W) to west county line (S18, T70N, R15W)
	South Chequest Creek	Mouth (S12, T69N, R12W) to confluence with Burr Oak Creek (S15, T69N, R12W)
	South Soap Creek	Mouth (S21, T70N, R15W) to west county line (S30, T70N, R15W)
Decatur	Elk Creek	Mouth (S18, T68N, R26W) to confluence with West Elk Creek (S34, T69N, R27W)
	Little River	South county line (S25, T67N, R25W) to confluence with West Little River (S31, T69N, R25W)

County	River/Stream	Location
	Long Creek	Mouth (S8, T69N, R26W) to confluence with Bee Creek (S9, T70N, R26W)
	Steel Creek	Mouth (S10, T67N, R24W) to confluence with Hog Creek (S26, T68N, R24W)
	Thompson River	South county line (S25, T67N, R26W) to west county line (S6, T70N, R27W)
	Weldon River	South county line (S27, T67N, R24W) to Hwy. 2 (S20, T69N, R24W)
	West Elk Creek	Mouth (S34, T69N, R27W) to confluence with unnamed tributary (NE 1/4, S32, T69N, R27W)
Delaware	Buck Creek	Mouth (S11, T87N, R04W) to confluence with Lime Creek (S17, T87N, R04W)
	Buffalo Creek	South county line (S33, T87N, R06W) to west county line (S18, T87N, R06W)
	Coffins Creek	Mouth (S19, T89N, R05W) to road crossing center (S26, T89N, R06W)
	Elk Creek	North county line (S2, T90N, R04W) to confluence with Schechtman Branch (S14, T90N, R04W)
	Honey Creek	Mouth (S19, T89N, R05W) to confluence with Lindsey Creek (S3, T89N, R05W)
	Maquoketa River	South county line (S31, T87N, R03W) to north county line (S5, T90N, R06W)
	North Fork Maquoketa River	East county line (S24, T87N, R03W) to east county line (S12, T88N, R03W)
	Plum Creek	Mouth (S11, T87N, R04W) to confluence with unnamed tributary (SE 1/4, S24, T89N, R04W)
	Sand Creek	Mouth (S9, T88N, R05W) to confluence with Todds Creek (S8, T88N, R05W)
	South Fork Maquoketa River	Mouth (S16, T90N, R06W) to west county line (S19, T90N, R06W)
Des Moines	Brush Creek	South line (S5, T69N, R03W) to mouth (S2, T68N, R03W)
	Cedar Fork	West line (S31, T72N, R03W) to mouth (S25, T71N, R04W)
	Cottonwood Drain	Mouth (S1, T70N, R02W) to confluence with unnamed tributary (middle S7, T71N, R01W)
	Flint Creek	West county line (S18, T71N, R04W) to mouth (S28, T70N, R02W)
	Hawkeye Creek	East line (S30, T72N, R02W) to mouth (S19, T72N, R01W)
	Hawkeye-Dolbee Channel	Confluence with Hawkeye Creek (S19, T72N, R01W) to mouth (S22, T72N, R01W)
	Honey Creek	North county line (NE 1/4, S5, T72N, R03W) to north county line (NW 1/4, S5, T72N, R03W)
	Knotty Creek	East line (S25, T71N, R03W) to mouth (S24, T70N, R03W)

County	River/Stream	Location
	Long Creek	South line (S3, T69N, R04W) to mouth (S30, T69N, R03W)
	Mississippi River	South county line (S8, T68N, R02W) to north county line (S3, T72N, R01W)
	Running Slough Drain	East line (S24, T72N, R02W) to mouth (S31, T71N, R01W)
	Skunk River	East county line (S8, T68N, R02W) to west county line (S2, T69N, R05W)
	Smith Creek	North county line (S6, T72N, R02W) to north county line (NW 1/4, NE 1/4, S1, T72N, R03W)
	Spring Creek	South line (S15, T69N, R03W) to mouth (S32, T69N, R02W)
	Unnamed Creek	South line (S27, T71N, R03W) to mouth (S4, T70N, R03W)
Dickinson	Little Sioux River	South county line (S32, T98N, R37W) to north county line (S10, T100N, R37W)
	Milford Creek	Middle (S12, T98N, R37W) to mouth (S14, T98N, R37W)
	Stony Creek	South county line (S34, T98N, R38W) to confluence with Drainage Ditch 41 (S27, T98N, R38W)
	West Branch Little Sioux River	South line (S27, T100N, R38W) to mouth (S36, T100N, R38W)
	West Fork Little Sioux River	South line (S24, T100N, R38W) to mouth (S7, T99N, R37W)
Dubuque	Catfish Creek	Mouth (S5, T88N, R03E) to north line (S16, T88N, R02E)
	Hewitt Creek	Mouth (S30, T89N, R02W) to confluence with Hickory Creek (S21, T89N, R02W)
	Little Maquoketa River	Mouth (S26, T90N, R02E) to confluence with North Fork Little Maquoketa River (S31, T90N, R02E)
	Lytle Creek	South county line (S31, T87N, R02E) to confluence with Prairie Creek (S24, T87N, R01E)
	Mississippi River	South county line (S34, T88N, R04E) to west county line (S30, T91N, R01E)
	North Fork Little Maquoketa River	Mouth (S31, T90N, R02E) to confluence with Middle Fork Little Maquoketa River (S35, T90N, R01E)
	North Fork Maquoketa River	South county line (S32, T87N, R01W) to confluence with Hewitt Creek (S29, T89N, R02W)
	Tetes Des Morts Creek	Mouth (S34, T88N, R04E) to south county line (S34, T88N, R04E)
	Whitewater Creek	South county line (S35, T87N, R01W) to confluence with Curran Creek (S12, T87N, R01W)
Emmet	Des Moines River	South county line (S33, T98N, R33W) to north county line (S7, T100N, R34W)
	East Branch Des Moines River	Tuttle Lake (S11, T100N, R32W) to east county line (S36, T99N, R31W)

County	River/Stream	Location
Fayette	Crane Creek	Mouth (S31, T95N, R09W) to west county line (S30, T95N, R10W)
	Little Turkey River	Mouth (S18, T95N, R08W) to north county line (S5, T95N, R10W)
	Little Volga River	Mouth (S2, T92N, R09W) to confluence with unnamed tributary (S2, T92N, R09W)
	Little Wapsipinicon River	South county line (S32, T91N, R10W) to west county line (S18, T92N, R10W)
	Otter Creek	South county line (S33, T91N, R09W) to confluence with unnamed tributary (S18, T91N, R09W)
	Turkey River	East county line (S13, T94N, R07W) to north county line (S3, T95N, R09W)
	Volga River	East county line (S25, T93N, R07W) to confluence with Little Volga River (S2, T92N, R09W)
Floyd	Cedar River	East county line (S12, T94N, R15W) to north county line (S24, T97N, R17W)
	Flood Creek	South county line (S34, T94N, R16W) to road crossing (S32, T96N, R17W)
	Little Cedar River	East county line (S1, T95N, R15W) to north county line (S24, T97N, R16W)
	Rock Creek	Mouth (S24, T97N, R17W) to north county line (S22, T97N, R17W)
	Shell Rock River	Mouth (S35, T94N, R17W) to west county line (S7, T96N, R18W)
	Winnebago River	Mouth (S14, T95N, R18W) to west county line (NW 1/4, S31, T96N, R18W)
Franklin	Bailey Creek	East line (S13, T93N, R20W) to mouth (S19, T93N, R19W)
	Beaverdam Creek	North county line (S2, T93N, R20W) to mouth (S19, T93N, R19W)
	Hartgrave Creek	Confluence of Otter Creek and Spring Creek (S29, T92N, R19W) to east county line (S25, T92N, R19W)
	Iowa River	South county line (S36, T90N, R22W) to west county line (S19, T91N, R22W)
	Maynes Creek	East line (S30, T91N, R20W) to east county line (S13, T91N, R19W)
	Otter Creek	East line (S31, T93N, R20W) to mouth (S29, T92N, R19W)
	Spring Creek	Beeds Lake Outlet (S20, T92N, R20W) to mouth (S29, T92N, R19W)
	West Fork Cedar River	Confluence of Bailey Creek and Beaverdam Creek (S19, T93N, R19W) to east county line (S12, T92N, R19W)
Fremont	East Nishnabotna River	Mouth (S2, T67N, R42W) to east county line (S13, T69N, R40W)
	Missouri River	South county line (S34, T67N, R43W) to north county line (S5, T70N, R43W)

County	River/Stream	Location
	Nishnabotna River	South county line (S35, T67N, R42W) to confluence of East and West Nishnabotna Rivers (S2, T67N, R42W)
	West Nishnabotna River	Mouth (S2, T67N, R42W) to north county line (S5, T70N, R41W)
Greene	Buttrick Creek	Mouth (S26, T83N, R30W) to confluence of East Branch and West Branch (S25, T84N, R30W)
	Cedar Creek	Mouth (S33, T85N, R32W) to north county line (S3, T85N, R32W)
	North Raccoon River	South county line (S32, T82N, R29W) to west county line (S18, T84N, R32W)
	Willow Creek	South county line (S31, T82N, R32W) to confluence with Drainage Ditch 117 (S21, T82N, R32W)
Grundy	Black Hawk Creek	East line (S35, T88N, R17W) to east county line (S1, T87N, R15W)
	Middle Fork South Beaver Creek	Mouth (S28, T89N, R17W) to confluence with North Fork South Beaver Creek (S28, T89N, R17W)
	North Black Hawk Creek	NE 1/4, S8, T88N, R15W to mouth (S1, T87N, R15W)
	South Beaver Creek	E 1/2, S3, T88N, R18W to north county line (S2, T89N, R17W)
	Wolf Creek	N 1/2, S31, T86N, R17W to east county line (S36, T86N, R17W)
Guthrie	Beaver Creek	Mouth (S5, T78N, R30W) to confluence with Spring Branch (S3, T78N, R31W)
	Brushy Creek	Mouth (S22, T79N, R31W) to west county line (S35, T81N, R33W)
	Middle Raccoon River	East county line (S36, T79N, R30W) to north county line (S3, T81N, R33W)
	Middle River	South county line (S36, T78N, R32W) to County Road N54 (S36, T79N, R33W)
	Mosquito Creek	East county line (SE 1/4, S1, T80N, R30W) to Hwy. 4 (S17, T81N, R30W)
	South Raccoon River	East county line (S12, T78N, R30W) to confluence with Frost Creek (S18, T80N, R32W)
	Troublesome Creek	West county line (S31, T79N, R33W) to confluence with North Branch Troublesome Creek (S20, T79N, R33W)
	Willow Creek	Mouth (S27, T81N, R32W) to north county line (S6, T81N, R32W)
Hamilton	Boone River	West county line (S30, T87N, R26W) to north county line (S3, T89N, R26W)
	Brewers Creek	Mouth (S6, T88N, R25W) to County Road R27 (S12, T88N, R26W)
	Eagle Creek	Mouth (S6, T89N, R25W) to north county line (S6, T89N, R25W)
	South Skunk River	South county line (S31, T86N, R23W) to County Road D41 (S36, T88N, R24W)

County	River/Stream	Location
	White Fox Creek	Mouth (S33, T89N, R25W) to north county line (S3, T89N, R25W)
Hancock	East Branch Iowa River	South county line (S32, T94N, R23W) to Hwy. 18 (S25, T96N, R24W)
	West Branch Iowa River	South county line (S35, T94N, R24W) to County Road B55 (S31, T95N, R24W)
	Winnebago River	East county line (S24, T97N, R23W) to north county line (S1, T97N, R24W)
Hardin	Elk Creek	Mouth (S28, T88N, R19W) to County Road D35 (S27, T88N, R19W)
	Honey Creek	South county line (S31, T86N, R19W) to County Road D65 (S24, T86N, R20W)
	Iowa River	South county line (SW 1/4, S35, T86N, R19W) to north county line (NW 1/4, NW 1/4, S1, T89N, R22W)
	South Fork Iowa River	Mouth (S4, T86N, R19W) to Hwy. 359 (S11, T88N, R22W)
Harrison	Boyer River	South county line (S33, T78N, R44W) to north county line (S3, T81N, R41W)
	Little Sioux River	Mouth (S27, T81N, R45W) to north county line (S5, T81N, R44W)
	Missouri River	South county line (S32, T78N, R45W) to north county line (S1, T81N, R46W)
	Monona Harrison Ditch	Mouth (S22, T81N, R45W) to north county line (S1, T81N, R45W)
	Soldier River	Mouth (S16, T80N, R45W) to north county line (S1, T81N, R44W)
Henry	Big Creek	South county line (S31, T72N, R05W) to mouth (S19, T70N, R05W)
	Brush Creek	West county line (S31, T72N, R07W) to mouth (S30, T72N, R07W)
	Cedar Creek	West county line (S6, T70N, R07W) to mouth (S6, T71N, R07W)
	Crooked Creek	West county line (S6, T73N, R07W) to north county line (S6, T73N, R07W)
	East Fork Crooked Creek	North county line (S1, T73N, R06W) to east county line (S36, T73N, R05W)
	Little Cedar Creek	South county line (S33, T70N, R07W) to mouth (S17, T70N, R07W)
	Mud Creek	South line (S15, T70N, R05W) to mouth (S34, T70N, R05W)
	Skunk River	South county line (S35, T70N, R05W) to west county line (S19, T73N, R07W)
Howard	Crane Creek	South county line (S16, T97N, R12W) to Hwy. 9 (S29, T99N, R13W)
	Little Wapsipinicon River	South county line (S13, T97N, R14W) to northwest line (S23, T98N, R14W)
	North Branch Turkey River	Mouth (S31, T99N, R11W) to Hwy. 9 (S25, T99N, R12W)
	Turkey River	East county line (S12, T98N, R11W) to west line (S1, T98N, R12W)

County	River/Stream	Location
	Upper Iowa River	East county line (S12, T100N, R11W) to north county line (NW 1/4, NE 1/4, S11, T100N, R14W)
	Wapsipinicon River	South county line (S17, T97N, R14W) to west county line (S18, T98N, R14W)
Humboldt	Des Moines River	South county line (S31, T91N, R28W) to west county line (S6, T92N, R30W)
	East Branch Des Moines River	Mouth (S19, T91N, R28W) to north county line (S1, T93N, R29W)
	Prairie Creek	West county line (S25, T93N, R27W) to north county line (S4, T93N, R27W)
Ida	Little Sioux River	West county line (S7, T89N, R41W) to north county line (S6, T89N, R41W)
	Maple River	West county line (S7, T86N, R41W) to north county line (S3, T89N, R39W)
	Odebolt Creek	Mouth (S15, T87N, R40W) to confluence with unnamed tributary (S24, T87N, R39W)
	Soldier River	South county line (S36, T86N, R41W) to confluence with unnamed tributary (NW 1/4, SE 1/4, S20, T86N, R40W)
Iowa	Big Bear Creek	West county line (S18, T80N, R12W) to mouth (S24, T81N, R11W)
	English River	South county line (S31, T78N, R09W) to west county line (S19, T79N, R12W)
	Honey Creek	Mouth (S12, T81N, R12W) to confluence with unnamed tributary (NE 1/4, SW 1/4, S28, T81N, R12W)
	Iowa River	East county line (S36, T81N, R09W) to north county line (S6, T81N, R12W)
	Old Mans Creek	West line (S35, T79N, R10W) to east county line (S36, T79N, R09W)
	Price Creek	Mouth (S36, T81N, R09W) to confluence with Mill Race (S26, T81N, R09W)
	Walnut Creek	North county line (S6, T81N, R12W) to west county line (S6, T81N, R12W)
Jackson	Bear Creek	Mouth (S13, T84N, R01E) to west county line (S30, T84N, R01E)
	Brush Creek	North line (S23, T85N, R03E) to Hwy. 62 bridge (S11, T85N, R03E)
	Deep Creek	Mouth (S18, T84N, R05E) to south county line (S31, T84N, R05E)
	Little Mill Creek	Mouth (S13, T86N, R04E) to west line (S23, T86N, R04E)
	Lytle Creek	Mouth (S8, T85N, R02E) to north county line (S6, T86N, R02E)
	Maquoketa River	Mouth (S7, T85N, R06E) to west county line (S18, T85N, R01E)
	Mill Creek	Mouth (S19, T86N, R05E) to west line (S9, T86N, R04E)
	Mississippi River	South county line (S32, T84N, R07E) to north county line (S3, T87N, R04E)

County	River/Stream	Location
	North Fork Maquoketa River	West county line (S31, T86N, R01E) to mouth (S13, T84N, R02E)
	Prairie Creek	Mouth (S17, T84N, R03E) to Hwy. 64~~,~~ (S20, T84N, R03E)
	Tetes Des Morts Creek	North county line (S3, T87N, R04E) to confluence with unnamed tributary (S23, T87N, R03E)
Jasper	Clear Creek	Mouth (S2, T80N, R21W) to confluence with Mud Creek (S24, T81N, R21W)
	Indian Creek	Mouth (S32, T80N, R20W) to west county line (S18, T81N, R21W)
	North Skunk River	East county line (S13, T78N, R17W) to north county line (S6, T81N, R19W)
	South Skunk River	South county line (S32, T78N, R18W) to west county line (S30, T80N, R21W)
	Squaw Creek	Mouth (S2, T79N, R21W) to confluence with unnamed tributary (S10, T79N, R21W)
Jefferson	Brush Creek	South line (S18, T72N, R08W) to east county line (S36, T72N, R08W)
	Cedar Creek	South county line (S35, T71N, R08W) to west county line (S18, T72N, R11W)
	Competine Creek	West county line (S31, T73N, R11W) to mouth (S28, T72N, R11W)
	Crooked Creek	Mouth (S1, T73N, R08W) to east county line (S1, T73N, R08W)
	Lick Creek	South county line (S32, T71N, R10W) to confluence with East Branch Lick Creek (S30, T71N, R10W)
	Middle Walnut Creek	Mouth (S26, T73N, R09W) to east line (S22, T73N, R09W)
	Skunk River	East county line (S13, T72N, R08W) to north county line (S1, T73N, R08W)
	Walnut Creek	Confluence of South and Middle Walnut Creeks (S26, T73N, R09W) to mouth (S2, T72N, R08W)
Johnson	Buck Creek	Mouth (S2, T77N, R06W) to confluence with Pechman Creek (S2, T77N, R06W)
	Cedar River	East county line (S13, T81N, R05W) to north county line (S3, T81N, R05W)
	Clear Creek	West county line (S30, T80N, R08W) to mouth (S8, T79N, R06W)
	Iowa River	South county line (S32, T77N, R05W) to west county line (S31, T81N, R08W)
	Old Mans Creek	West county line (S31, T79N, R08W) to mouth (S27, T78N, R06W)
	Rapid Creek	Mouth (S34, T80N, R06W) to confluence with unnamed tributary (S21, T80N, R05W)
Jones	Bear Creek	East county line (S25, T84N, R01W) to confluence with Little Bear Creek (S30, T84N, R01W)

County	River/Stream	Location
	Buffalo Creek	West county line (S19, T85N, R04W) to mouth (S10, T84N, R04W)
	Maquoketa River	East county line (SE 1/4, S24, T85N, RO1W) to north county line (S6, T86N, R03W)
	North Fork Maquoketa River	East county line (SE 1/4, S36, T86N, R01W) to north county line (S6, T86N, R01W)
	Silver Creek	Mouth (S8, T86N, R03W) to confluence with Grove Creek (S11, T86N, R04W)
	Walnut Creek	Mouth (S18, T83N, R02W) to confluence of North and South Fork Walnut Creeks (S13, T83N, R04W)
	Wapsipinicon River	South county line (S36, T83N, R01W) to west county line (S6, T84N, R04W)
	Whitewater Creek	Mouth (S10, T86N, R01W) to north county line (S2, T86N, R01W)
Keokuk	Bridge Creek	South line (S23, T76N, R12W) to mouth (S18, T75N, R11W)
	Cedar Creek	East line (S19, T76N, R13W) to mouth (S15, T75N, R12W)
	North Skunk River	West county line (S6, T75N, R13W) to mouth (S5, T74N, R10W)
	Rock Creek	South line (S21, T76N, R12W) to mouth (S9, T75N, R12W)
	Skunk River	East county line (S12, T74N, R10W) to confluence of North and South Skunk Rivers (S5, T74N, R10W)
	South English River	East county line (S12, T77N, R10W) to west county line (S6, T77N, R13W)
	South Skunk River	West county line (S30, T75N, R13W) to mouth (S5, T74N, R10W)
Kossuth	Buffalo Creek	West line (S4, T97N, R27W) to mouth (S21, T97N, R28W)
	East Branch Des Moines River	South county line (S36, T94N, R29W) to west county line (S31, T99N, R30W)
	Prairie Creek	South county line (S33, T94N, R27W) to confluence with Drainage Ditch 177 (S5, T94N, R27W)
Lee	Des Moines River	Mouth (S34, T65N, R05W) to west county line (S19, T67N, R07W)
	Lost Creek	South line (S32, T69N, R04W) to mouth (S36, T68N, R04W)
	Mississippi River	South county line (S34, T65N, R05W) to north county line (S8, T68N, R02W)
	Pitman Creek	South line (S10, T68N, R05W) to mouth (S29, T68N, R05W)
	Skunk River	Mouth (S8, T68N, R02W) to north county line (S2, T69N, R05W)
	Sugar Creek	South line (S24, T68N, R07W) to mouth (S25, T65N, R06W)

County	River/Stream	Location
	Sugar Creek	South line (S26, T69N, R06W) to mouth (S26, T67N, R05W)
Linn	Bear Creek	West county line (S18, T84N, R08W) to mouth (S21, T84N, R08W)
	Big Creek	Mouth (S9, T82N, R06W) to confluence with Abbe Creek (S34, T83N, R06W)
	Blue Creek	Mouth (S18, T85N, R08W) to west county line (S19, T86N, R08W)
	Buffalo Creek	East county line (S24, T85N, R05W) to north county line (S4, T86N, R06W)
	Cedar River	South county line (S34, T82N, R05W) to west county line (S18, T85N, R08W)
	Indian Creek	Mouth (S30, T83N, R06W) to confluence with Dry Creek (S1, T83N, R07W)
	Prairie Creek	West county line (S7, T82N, R08W) to mouth (S34, T83N, R07W)
	Wapsipinicon River	East county line (S1, T84N, R05W) to north county line (S6, T86N, R07W)
Louisa	Big Slough Creek	East line (S7, T74N, R05W) to mouth (S14, T74N, R05W)
	Buffington Creek	Mouth (S13, T74N, R05W) to west line (S18, T74N, R05W)
	Cedar River	Mouth (S20, T75N, R04W) to north county line (S5, T75N, R04W)
	East Fork Crooked Creek	West county line (S31, T73N, R04W) to south county line (S32, T73N, R04W)
	Goose Creek	West county line (S19, T76N, R05W) to mouth (S27, T76N, R05W)
	Honey Creek	Mouth (S1, T75N, R05W) to east county line (S25, T76N, R05W)
	Honey Creek	Mouth (S14, T73N, R03W) to south county line (S32, T73N, R03W)
	Indian Creek	Mouth (S7, T74N, R03W) to south line (S1, T75N, R04W)
	Iowa River	Mouth (S31, T74N, R01W) to north county line (NW 1/4, S6, T76N, R05W)
	Johnny Creek	Mouth (S12, T74N, R05W) to east line (S6, T74N, R04W)
	Long Creek	West line (S30, T75N, R05W) to mouth (S1, T74N, R04W)
	Mississippi River	South county line (S34, T73N, R01W) to north county line (S3, T75N, R02W)
	Muscatine Slough	North county line (S1, T75N, R03W) to county road bridge (S31, T75N, R02W)
	Muskrat Lake	Mouth at the Iowa River (S16, T74N, R03W) to SE 1/4, S16, T74N, R03W
	Otter Creek	Mouth (S19, T73N, R02W) to middle (S16, T73N, R04W)
	Roff Creek	Mouth (S1, T73N, R04W) to south county line (S36, T73N, R04W)

County	River/Stream	Location
	Short Creek	Mouth (S19, T75N, R04W) to west county line (S6, T75N, R05W)
	Smith Creek	Mouth (S28, T73N, R02W) to south county line (S35, T73N, R03W)
Lucas	Chariton River	Rathbun Lake (S36, T71N, R20W) to Hwy. 14 (S32, T72N, R21W)
	Otter Creek	North county line (S5, T73N, R23W) to confluence with South Otter Creek (S8, T73N, R23W)
	White Breast Creek	North county line (S2, T73N, R22W) to west county line (S6, T71N, R23W)
Lyon	Big Sioux River	South county line (S31, T98N, R48W) to north county line (S11, T100N, R49W)
	Kanaranzi Creek	Mouth (S28, T100N, R45W) to north county line (S11, T100N, R45W)
	Little Rock River	East county line (S25, T100N, R43W) to mouth (S35, T98N, R46W)
	Mud Creek	Mouth (S26, T98N, R46W) to confluence with first unnamed tributary (SW 1/4, S29, T99N, R46W)
	Otter Creek	Mouth (S21, T98N, R44W) to west county line (S36, T98N, R43W)
	Rock River	South county line (S35, T98N, R46W) to north county line (S8, T100N, R45W)
	Tom Creek	Mouth (S4, T99N, R45W) to confluence with unnamed tributary (S22, T100N, R44W)
Madison	Badger Creek	East county line (S24, T77N, R26W) to confluence with Cherry Creek (S13, T77N, R26W)
	Bush Branch	Mouth (S8, T75N, R29W) to west county line (S18, T75N, R29W)
	Clanton Creek	East county line (S12, T75N, R26W) to confluence of North Fork and South Fork Clanton Creek (S15, T74N, R27W)
	Middle River	West county line (NW 1/4, S31, T76N, R29W) to east county line (S25, T76N, R26W)
	North Branch North River	Mouth (S35, T77N, R27W) to west county line (S7, T77N, R29W)
	North River	East county line (S1, T76N, R26W) to east line (S17, T76N, R28W)
	South Fork Clanton Creek	Mouth (S15, T74N, R27W) to confluence with Bird Creek (S15, T74N, R27W)
	Thompson River	South county line (S34, T74N, R29W) to west county line (S7, T74N, R29W)
	West Branch Creek	Mouth (S34, T74N, R29W) to confluence with unnamed tributary (S19, T74N, R29W)
Mahaska	Cedar Creek	West county line (S31, T75N, R17W) to mouth (S33, T75N, R17W)
	Coal Creek	Mouth (S1, T74N, R17W) to confluence with North Coal Creek (S1, T74N, R17W)

County	River/Stream	Location
	Des Moines River	South county line (S36, T74N, R16W) to west county line (S18, T75N, R17W)
	English Creek	Mouth (S18, T75N, R17W) to west county line (S18, T75N, R17W)
	Middle Creek	Mouth (S35, T76N, R14W) to confluence with unnamed tributary (S16, T76N, R15W)
	Moon Creek	Mouth (S30, T77N, R14W) to north county line (S1, T77N, R15W)
	Muchakinock Creek	South county line (S36, T74N, R16W) to confluence with Little Muchakinock Creek (S34, T75N, R16W)
	North Skunk River	East county line (S1, T75N, R14W) to north county line (S1, T77N, R16W)
	South English River	East county line (S1, T77N, R14W) to confluence with unnamed tributary (S1, T77N, R14W)
	South Skunk River	East county line (S25, T75N, R14W) to west county line (S19, T77N, R17W)
Marion	Carruthers Creek	Mouth (S33, T74N, R19W) to confluence with Hickory Creek (S33, T74N, R19W)
	Cedar Creek	East county line (S36, T75N, R18W) to south county line (S31, T74N, R18W)
	Coal Creek	West county line (S7, T76N, R21W) to confluence with Coon Creek (S29, T76N, R21W)
	Des Moines River	East county line (S13, T75N, R18W) to west county line (S7, T77N, R21W)
	English Creek	East county line (S13, T75N, R18W) to confluence with Long Branch (S16, T74N, R20W)
	North Cedar Creek	Mouth (S15, T74N, R18W) to confluence with Carruthers Creek (S33, T74N, R19W)
	South Skunk River	East county line (S24, T77N, R18W) to north county line (S5, T77N, R18W)
	White Breast Creek	West county line (S18, T74N, R21W) to mouth (S16, T76N, R19W)
Marshall	Honey Creek	North county line (S6, T85N, R19W) to mouth (S27, T85N, R19W)
	Iowa River	East county line (S1, T83N, R17W) to north county line (S2, T85N, R19W)
	Minerva Creek	Mouth (S2, T84N, R19W) to NW 1/4, S9, T85N, R20W
	South Timber Creek	Mouth (S17, T83N, R17W) to confluence with Brush Creek (S32, T83N, R17W)
	Timber Creek	County road bridge (S24, T83N, R18W) to mouth (S3, T83N, R17W)
	Wolf Creek	North county line (S2, T85N, R17W) to north county line (S2, T85N, R17W)
Mills	Farm Creek	Mouth (S9, T73N, R40W) to north county line (S1, T73N, R40W)

County	River/Stream	Location
	Keg Creek	Mouth (S6, T71N, R43W) to confluence with Snake Creek (S8, T73N, R42W)
	Missouri River	South county line (S32, T71N, R43W) to north county line (S2, T73N, R44W)
	Silver Creek	Mouth (S21, T71N, R41W) to north county line (S6, T73N, R41W)
	West Nishnabotna River	South county line (S32, T71N, R41W) to north county line (S3, T73N, R40W)
Mitchell	Cedar River	South county line (S13, T97N, R17W) to north county line (S8, T100N, R18W)
	Deer Creek	Mouth (S23, T99N, R18W) to west county line (S6, T99N, R18W)
	Little Cedar River	South county line (S13, T97N, R16W) to north county line (S9, T100N, R16W)
	Otter Creek	Mouth (S21, T100N, R18W) to north county line (S11, T100N, R18W)
	Rock Creek	South county line (S14, T97N, R17W) to west line (S7, T97N, R17W)
	Spring Creek	Mouth (S13, T97N, R17W) to north line (S29, T98N, R16W)
	Turtle Creek	Mouth (S23, T99N, R18W) to north line (S8, T99N, R17W)
	Wapsipinicon River	East county line (S13, T98N, R15W) to north line (S20, T100N, R15W)
Monona	East Soldier River	Mouth (S34, T84N, R42W) to east county line (S36, T84N, R42W)
	Farmers Garretson Outlet Ditch	Mouth (S9, T85N, R45W) to north county line (S5, T85N, R45W)
	Haitz Ditch	Mouth (S12, T84N, R45W) to north county line (S2, T85N, R45W)
	Little Sioux River	South county line (S32, T82N, R44W) to north county line (S2, T85N, R44W)
	Maple River	Mouth (S16, T83N, R44W) to north county line (S5, T85N, R42W)
	Missouri River	South county line (S36, T82N, R46W) to north county line (S6, T85N, R47W)
	Monona Harrison Ditch	South county line (S31, T82N, R44W) to confluence of West Fork Ditch and Haitz Ditch (S12, T84N, R45W)
	Soldier River	South county line (S31, T82N, R43W) to east county line (S25, T85N, R42W)
	West Fork Ditch	Mouth (S12, T84N, R45W) to north county line (S4, T85N, R45W)
Monroe	Cedar Creek	North county line (S6, T73N, R18W) to confluence with Mormon Branch (S5, T71N, R18W)
	Des Moines River	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)
	Mormon Branch	Mouth (S5, T71N, R18W) to confluence with Moffatt Branch (S21, T71N, R18W)
	Muchakinock Creek	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)

County	River/Stream	Location
	Soap Creek	South county line (S32, T71N, R16W) to confluence with Mormon Creek (S31, T71N, R16W)
	Whites Creek	Mouth (S21, T73N, R18W) to confluence with English Branch (S30, T73N, R18W)
Montgomery	East Nishnabotna River	South county line (S36, T71N, R39W) to north county line (S1, T73N, R38W)
	Middle Nodaway River	Mouth (S33, T71N, R36W) to east county line (S36, T72N, R36W)
	Sevenmile Creek	Mouth (S33, T73N, R36W) to north county line (S6, T73N, R36W)
	Tarkio River	South county line (S32, T71N, R37W) to confluence with Little Tarkio Creek (S4, T71N, R37W)
	West Nodaway River	South county line (S33, T71N, R36W) to north county line (S2, T73N, R36W)
Muscatine	Cedar River	South county line (S32, T76N, R04W) to north county line (S6, T78N, R02W)
	Mississippi River	South county line (S34, T76N, R02W) to east county line (S24, T77N, R01E)
	Mud Creek	Mouth (S10, T78N, R02W) to west line (S5, T78N, R01E)
	Muscatine Slough	South county line (S36, T76N, R03W) to south line (S5, T76N, R02W)
	Pike Run	Mouth (S19, T77N, R03W) to south line (S34, T78N, R03W)
	Pine Creek	Mouth (S21, T77N, R01E) to confluence with East Branch Pine Creek (S17, T77N, R01E)
	Sugar Creek	Mouth (S17, T78N, R02W) to north county line (S3, T78N, R02W)
	Wapsinonoc Creek	Mouth (S19, T77N, R03W) to confluence of East Branch and Middle Branch (S6, T78N, R03W)
	Weise Slough	S19, T78N, R02W
	West Branch Wapsinonoc Creek	Mouth (S24, T78N, R04W) to north county line (S4, T78N, R04W)
O'Brien	Floyd River	West county line (S30, T97N, R42W) to confluence with North Fork Floyd River (S9, T97N, R41W)
	Little Sioux River	South county line (S34, T94N, R39W) to east county line (S25, T94N, R39W)
	Mill Creek	South county line (S34, T94N, R41W) to confluence with West Branch Mill Creek (S4, T95N, R41W)
	Ocheyedan River	East county line (S12, T97N, R39W) to north county line (S2, T97N, R39W)
	Waterman Creek	Mouth (S26, T94N, R39W) to confluence with Little Waterman Creek (S4, T95N, R39W)
Osceola	Little Rock River	West county line (S30, T100N, R42W) to north county line (S7, T100N, R42W)

County	River/Stream	Location
	Ocheyedan River	South county line (S35, T98N, R39W) to north county line (S12, T100N, R41W)
	Otter Creek	West county line (S31, T98N, R42W) to confluence with Cloverdale Creek (S31, T99N, R41W)
Page	East Nishnabotna River	West county line (S18, T69N, R39W) to north county line (S1, T70N, R39W)
	East Nodaway River	Mouth (S7, T67N, R36W) to east county line (S1, T69N, R36W)
	Nodaway River	South county line (S31, T67N, R36W) to confluence of East and West Nodaway Rivers (S7, T67N, R36W)
	Tarkio River	South county line (S32, T67N, R38W) to north county line (S5, T70N, R37W)
	West Nodaway River	Mouth (S7, T67N, R36W) to north county line (S4, T70N, R36W)
Palo Alto	Cylinder Creek	Mouth (S28, T94N, R31W) to confluence with Dry Ditch (S24, T95N, R32W)
	Des Moines River	South county line (S35, T94N, R31W) to north county line (S4, T97N, R33W)
	Jack Creek	Mouth (S35, T97N, R33W) to west line (S11, T97N, R33W)
Plymouth	Big Sioux River	South county line (S34, T90N, R48W) to north county line (S5, T93N, R48W)
	Broken Kettle Creek	Mouth (S9, T90N, R48W) to confluence with Bull Run (S25, T92N, R48W)
	Deep Creek	Mouth (S2, T92N, R45W) to confluence with unnamed tributary (SE 1/4, NW 1/4, S28, T93N, R43W)
	Floyd River	South county line (S31, T90N, R46W) to north county line (S6, T93N, R44W)
	Indian Creek	Mouth (S9, T93N, R48W) to north county line (S4, T93N, R47W)
	Mink Creek	Mouth (S35, T92N, R46W) to confluence with unnamed tributary (S16, T92N, R46W)
	Perry Creek	South county line (S33, T90N, R47W) to confluence with West Branch Perry Creek (S33, T90N, R47W)
	West Branch Floyd River	Mouth (S2, T91N, R46W) to north county line (S5, T93N, R45W)
	West Fork Little Sioux River	South county line (S34, T90N, R44W) to east county line (S36, T91N, R43W)
	Whiskey Creek	Mouth (S36, T91N, R43W) to confluence with unnamed tributary (NE 1/4, NW 1/4, S2, T91N, R43W)
	Willow Creek	Mouth (S9, T92N, R45W) to confluence with Deep Creek (S2, T92N, R45W)
Pocahontas	Des Moines River	East county line (S1, T92N, R31W) to north county line (S2, T93N, R31W)
	Lizard Creek	East county line (S13, T90N, R31W) to west line (S2, T90N, R31W)

County	River/Stream	Location
	North Branch Lizard Creek	Mouth (S2, T90N, R31W) to north line (S6, T91N, R31W)
	Pilot Creek	Mouth (S1, T92N, R31W) to west line (S4, T92N, R31W)
Polk	Beaver Creek	Mouth (S17, T79N, R24W) to west county line (S18, T80N, R25W)
	Des Moines River	East county line (S12, T77N, R22W) to west county line (S30, T81N, R25W)
	Fourmile Creek	Mouth (S16, T78N, R23W) to south line (S1, T80N, R24W)
	Indian Creek	East county line (S13, T81N, R22W) to north county line (S3, T81N, R22W)
	North River	Mouth (S36, T78N, R23W) to south county line (SW 1/4, SW 1/4, S34, T78N, R23W)
	Raccoon River	Mouth (S10, T78N, R24W) to west county line (S30, T78N, R25W)
	South River	Mouth (S12, T77N, R22W) to south county line (S12, T77N, R22W)
	South Skunk River	East county line (S25, T80N, R22W) to north county line (S3, T81N, R23W)
	Walnut Creek	Mouth (S13, T78N, R25W) to west county line (S30, T79N, R25W)
Pottawattamie	Boyer River	Mouth (S20, T77N, R44W) to north county line (S4, T77N, R44W)
	East Branch West Nishnabotna River	Mouth (S29, T77N, R39W) to north county line (S3, T77N, R39W)
	East Nishnabotna River	South county line (S36, T74N, R38W) to east county line (S36, T75N, R38W)
	Farm Creek	South county line (S36, T74N, R40W) to confluence with Jordan Creek (S31, T74N, R39W)
	Missouri River	South county line (S35, T74N, R44W) to north county line (S3, T77N, R45W)
	Mosquito Creek	Mouth (S30, T74N, R43W) to confluence with unnamed tributary (NW 1/4, S10, T76N, R42W)
	Pigeon Creek	Mouth (S3, T75N, R44W) to confluence with Potato Creek (S23, T77N, R43W)
	Pony Creek	Mouth (S30, T74N, R43W) to confluence with unnamed tributary (center of S28, T74N, R43W)
	Silver Creek	South county line (S31, T74N, R41W) to confluence with Middle Silver Creek (S31, T74N, R41W)
	West Nishnabotna River	South county line (S34, T74N, R40W) to north county line (S5, T77N, R39W)
Poweshiek	Big Bear Creek	East county line (S13, T80N, R13W) to confluence with unnamed tributary (NW 1/4, S8, T80N, R14W)
	English River	East county line (S24, T79N, R13W) to confluence with Dugout Creek (S15, T79N, R14W)

County	River/Stream	Location
	Moon Creek	South county line (S36, T78N, R15W) to confluence with unnamed tributary (NE 1/4, S26, T78N, R15W)
	North Skunk River	South county line (S36, T78N, R16W) to west county line (S18, T78N, R16W)
	Sugar Creek	Mouth (S20, T78N, R16W) to confluence with unnamed tributary (NW 1/4, S31, T79N, R16W)
	Walnut Creek	East county line (S1, T81N, R13W) to confluence with North Walnut Creek (S7, T81N, R13W)
Ringgold	East Fork Grand River	South county line (S25, T67N, R30W) to confluence with Hackberry Creek (S13, T70N, R29W)
	Grand River	South county line (S30, T67N, R31W) to confluence with Plum Creek (S29, T70N, R30W)
	Platte River	West county line (S31, T68N, R31W) to north county line (S6, T70N, R31W)
	Thompson River	East county line (S1, T70N, R28W) to north county line (S1, T70N, R28W)
Sac	Boyer River	South county line (S31, T86N, R37W) to west line (S5, T89N, R37W)
	Cedar Creek	Mouth (S25, T88N, R36W) to west line (S10, T88N, R35W)
	Drainage Ditch 57	Mouth (S23, T87N, R36W) to east line (S35, T87N, R36W)
	Indian Creek	Mouth (S24, T87N, R36W) to north line (S7, T87N, R36W)
	North Raccoon River	East county line (S1, T86N, R35W) to north county line (S1, T89N, R36W)
Scott	Hickory Creek	Mouth (S31, T80N, R02E) to confluence with unnamed tributary (S8, T79N, R02E)
	Lost Creek	Mouth (S15, T80N, R05E) to east line (S32, T80N, R05E)
	Mississippi River	West county line (S19, T77N, R02E) to north county line (S13, T80N, R05E)
	Mud Creek	Mouth (S12, T80N, R02E) to county road bridge (S11, T79N, R01E)
	Wapsipinicon River	Mouth (S13, T80N, R05E) to north county line (S1, T80N, R01E)
Shelby	East Branch West Nishnabotna River	South county line (S34, T78N, R39W) to east county line (S13, T80N, R37W)
	Indian Creek	South county line (S32, T78N, R37W) to confluence with unnamed tributary (S8, T78N, R37W)
	West Fork West Nishnabotna River	Mouth (S17, T79N, R38W) to north county line (S5, T81N, R38W)
	West Nishnabotna River	South county line (S32, T78N, R39W) to north county line (S2, T81N, R37W)
Sioux	Big Sioux River	South county line (S32, T94N, R48W) to west county line (S6, T97N, R48W)

County	River/Stream	Location
	Floyd River	South county line (S31, T94N, R44W) to east county line (S25, T97N, R43W)
	Indian Creek	South county line (S33, T94N, R47W) to confluence with unnamed tributary (S33, T94N, R47W)
	Otter Creek	North county line (S2, T97N, R44W) to north county line (S1, T97N, R43W)
	Rock River	Mouth (S1, T95N, R48W) to north county line (S2, T97N, R46W)
	Sixmile Creek	Mouth (S28, T94N, R48W) to confluence with unnamed tributary (S19, T95N, R46W)
	West Branch Floyd River	South county line (S32, T94N, R45W) to confluence with unnamed tributary (S8, T96N, R44W)
Story	East Indian Creek	Mouth (S16, T82N, R22W) to Hwy. 30 (S14, T83N, R22W)
	Indian Creek	Mouth (S34, T82N, R22W) to confluence of East and West Indian Creeks (S16, T82N, R22W)
	South Skunk River	South county line (S34, T82N, R23W) to north county line (S6, T85N, R23W)
	Squaw Creek	Mouth (S12, T83N, R24W) to west county line (S7, T84N, R24W)
	West Indian Creek	Mouth (S16, T82N, R22W) to Hwy. 30 (S18, T83N, R22W)
Tama	Deer Creek	Mouth (S34, T83N, R15W) to confluence with Crystal Creek (S10, T84N, R16W)
	East Branch Salt Creek	Mouth (S34, T84N, R13W) to confluence with Stein Creek (S26, T84N, R13W)
	Iowa River	East county line (S36, T82N, R13W) to west county line (S6, T83N, R16W)
	Salt Creek	East county line (S36, T82N, R13W) to confluence with Simpson Creek (S18, T84N, R13W)
	Stein Creek	Mouth (S26, T84N, R13W) to confluence with unnamed tributary (S24, T84N, R13W)
	Twelvemile Creek	Mouth (S19, T86N, R13W) to confluence with Rock Creek (S23, T86N, R14W)
	Wolf Creek	East county line (S24, T86N, R13W) to west county line (S31, T86N, R16W)
Taylor	East Fork One Hundred Two River	South county line (S31, T67N, R34W) to Hwy. 49 (S1, T69N, R33W)
	East Nodaway River	West county line (S6, T69N, R25W) to north county line (S6, T70N, R35W)
	Platte River	South county line (S28, T67N, R32W) to east county line (S36, T68N, R32W)
	West Branch One Hundred Two River	Mouth (S10, T68N, R35W) to confluence with Middle Branch One Hundred Two River (S6, T69N, R34W)

County	River/Stream	Location
	West Fork One Hundred Two River	South county line (S34, T67N, R35W) to confluence with West Branch One Hundred Two River (S10, T68, R35W)
Union	Platte River	South county line (S31, T71N, R31W) to S2, T73N, R31W
	Thompson River	South county line (S36, T71N, R28W) to north county line (S3, T73N, R29W)
	Threemile Creek	Mouth (S18, T72N, R28W) to confluence with Twomile Creek (S11, T72N, R29W)
	West Branch Creek	North county line (NE 1/4, S3, T73N, R29W) to north county line (NW 1/4, S3, T73N, R29W)
Van Buren	Cedar Creek	East county line (SE 1/4, S12, T70N, R08W) to north county line (S5, T70N, R08W)
	Chequest Creek	Mouth (S27, T69N, R10W) to west county line (S7, T69N, R11W)
	Des Moines River	East county line (S13, T67N, R08W) to west county line (S7, T70N, R11W)
	Fox River	South county line (S17, T67N, R09W) to west county line (S6, T68N, R11W)
	Lick Creek	Mouth (S1, T69N, R10W) to north county line (S5, T70N, R10W)
Wapello	Cedar Creek	East county line (S13, T72N, R12W) to confluence with Spring Creek (S17, T73N, R13W)
	Des Moines River	South county line (S35, T71N, R12W) to west county line (S6, T73N, R15W)
	Muchakinock Creek	Mouth (S6, T73N, R15W) to west county line (S6, T73N, R15W)
	Soap Creek	South county line (S35, T71N, R12W) to south county line (S34, T71N, R12W)
Warren	Badger Creek	Mouth (S33, T77N, R25W) to west county line (S19, T77N, R25W)
	Clanton Creek	Mouth (S28, T76N, R25W) to west county line (S7, T75N, R25W)
	Coal Creek	Mouth (S14, T77N, R22W) to east county line (S12, T76N, R22W)
	Des Moines River	East county line (S12, T77N, R22W) to north county line (S6, T77N, R22W)
	Middle River	Mouth (S9, T77N, R22W) to west county line (S30, T76N, R25W)
	North River	North county line (S2, T77N, R23W) to west county line (S6, T76N, R25W)
	Otter Creek	Mouth (S34, T76N, R23W) to south county line (S32, T74N, R23W)
	South River	Mouth (S12, T77N, R22W) to west county line (S19, T74N, R25W)
	Squaw Creek	Mouth (S2, T75N, R24W) to south county line (S36, T74N, R25W)
	White Breast Creek	East county line (S13, T74N, R22W) to south county line (S35, T74N, R22W)

County	River/Stream	Location
Washington	Camp Creek	Mouth (S17, T77N, R07W) to north line (S33, T77N, R07W)
	Clemons Creek	Mouth (S14, T75N, R08W) to west line (S9, T75N, R08W)
	Crooked Creek	South county line (S31, T74N, R07W) to confluence of East and West Forks (S24, T74N, R07W)
	Dutch Creek	Mouth (S8, T74N, R09W) to south line (S21, T75N, R09W)
	East Fork Crooked Creek	Mouth (S24, T74N, R07W) to south county line (S35, T74N, R06W)
	English River	East county line (S11, T77N, R06W) to north county line (S6, T77N, R09W)
	Goose Creek	East county line (S24, T76N, R06W) to east line (S22, T76N, R06W)
	Honey Creek	Mouth (S9, T74N, R09W) to Lake Darling (S21, T74N, R09W)
	Iowa River	East county line (S36, T77N, R06W) to north county line (S3, T77N, R06W)
	Lime Creek	Mouth (S9, T77N, R08W) to confluence with Smith Creek (S16, T77N, R08W)
	Long Creek	East county line (S25, T75N, R06W) to confluence of North and South Forks (S26, T75N, R06W)
	North Fork Long Creek	Mouth (S26, T75N, R06W) to east line (S3, T75N, R07W)
	Skunk River	South county line (S36, T74N, R08W) to west county line (S6, T74N, R09W)
	Smith Creek	Mouth (S16, T77N, R08W) to west county line (S19, T77N, R09W)
	South English River	Mouth (S6, T77N, R09W) to west county line (S7, T77N, R09W)
	South Fork Long Creek	Mouth (S26, T75N, R06W) to County Road W61 (S4, T75N, R07W)
	West Fork Crooked Creek	Mouth (S24, T74N, R07W) to east line (S28, T76N, R09W)
	Williams Creek	Mouth (S31, T74N, R07W) to south county line (S32, T74N, R06W)
Wayne	Chariton River	East county line (S1, T70N, R20W) to north county line (S1, T70N, R20W)
	South Fork Chariton River	East county line (S36, T70N, R20W) to confluence with Dick Creek (S16, T69N, R22W)
Webster	Boone River	Mouth (S36, T87N, R27W) to east county line (S25, T87N, R27W)
	Brushy Creek	Mouth (S15, T87N, R27W) to north line (S8, T88N, R27W)
	Deer Creek	Mouth (S24, T90N, R29W) to north line (S16, T90N, R29W)
	Des Moines River	South county line (S34, T86N, R27W) to north county line (S6, T90N, R28W)

County	River/Stream	Location
	Lizard Creek	Mouth (S19, T89N, R28W) to west county line (S18, T90N, R30W)
	Prairie Creek	Mouth (S35, T88N, R28W) to west line (S29, T88N, R28W)
	South Branch Lizard Creek	Mouth (S23, T89N, R29W) to west county line (S7, T89N, R30W)
Winnebago	Winnebago River	South county line (S36, T98N, R24W) to north county line (S9, T100N, R23W)
Winneshiek	Bear Creek	East county line (S25, T100N, R07W) to confluence of North and South Bear Creeks (S25, T100N, R07W)
	Canoe Creek	Mouth (S25, T99N, R07W) to west line (S8, T99N, R08W)
	Little Turkey River	South county line (S32, T96N, R10W) to west county line (S30, T96N, R10W)
	North Bear Creek	Mouth (S25, T100N, R07W) to confluence with Middle Bear Creek (S14, T100N, R07W)
	Paint Creek	East county line (S13, T99N, R07W) to west line (S11, T99N, R07W)
	South Bear Creek	Mouth (S25, T100N, R07W) to confluence with unnamed tributary (NW 1/4, S34, T100N, R07W)
	Turkey River	South county line (S34, T96N, R09W) to west county line (S7, T98N, R10W)
	Upper Iowa River	East county line (NE 1/4, NE 1/4, S25, T99N, R07W) to west county line (S7, T100N, R10W)
	Yellow River	East county line (S13, T96N, R07W) to confluence with North Fork Yellow River (S13, T96N, R07W)
Woodbury	Big Sioux River	Mouth (S31, T89N, R47W) to north county line (S3, T89N, R48W)
	Farmers Ditch	Mouth (S32, T86N, R45W) to confluence with Big Whiskey Creek (S31, T88N, R46W)
	Farmers Garretson Outlet Ditch	South county line (S32, T86N, R45W) to confluence with Farmers Ditch (S32, T86N, R45W)
	Floyd River	Mouth (S33, T89N, R47W) to north county line (S6, T89N, R46W)
	Garretson Ditch	Mouth (S32, T86N, R45W) to confluence with Camp Creek (S15, T87N, R46W)
	Haitz Ditch	South county line (S35, T86N, R45W) to confluence with Cottonwood Hollow (S35, T86N, R45W)
	Little Sioux River	South county line (S35, T86N, R44W) to east county line (S12, T89N, R42W)
	Maple River	South county line (S32, T86N, R42W) to east county line (S13, T86N, R42W)
	Missouri River	South county line (S31, T86N, R47W) to confluence with Big Sioux River (S31, T89N, R47W)

County	River/Stream	Location
	Perry Creek	Mouth (S32, T89N, R47W) to north county line (S4, T89N, R47W)
	West Fork Ditch	South county line (S33, T86N, R45W) to confluence with West Fork Little Sioux River (S9, T86N, R45W)
	West Fork Little Sioux River	Confluence with West Fork Ditch (S9, T86N, R45W) to north county line (S2, T89N, R44W)
	Wolf Creek	South county line (S35, T86N, R45W) to confluence with East Fork Wolf Creek (S30, T87N, R44W)
Worth	Beaver Creek	Mouth (S34, T98N, R22W) to Hwy. 9 (S28, T98N, R22W)
	Deer Creek	East county line (S1, T99N, R19W) to County Road S56 (S17, T100N, R19W)
	Elk Creek	Mouth (S27, T99N, R20W) to Hwy. 105 (S5, T99N, R22W)
	Shell Rock River	South county line (S32, T98N, R19W) to north county line (S12, T100N, R21W)
	Willow Creek	Mouth (S32, T98N, R21W) to Hwy. 9 (S20, T98N, R21W)
	Winans Creek	Mouth (S36, T98N, R22W) to Hwy. 9 (S24, T98N, R22W)
	Winnebago River	South county line (SE 1/4, SW 1/4, S32, T98N, R21W) to south county line (S34, T98N, R22W)
Wright	Boone River	South county line (S34, T90N, R26W) to north county line (S2, T93N, R26W)
	Eagle Creek	South county line (S31, T90N, R25W) to County Road R33 (S30, T91N, R25W)
	East Branch Iowa River	Mouth (S19, T93N, R23W) to north county line (S6, T93N, R23W)
	Iowa River	East county line (S13, T90N, R23W) to confluence of East Branch Iowa River and West Branch Iowa River (S19, T93N, R23W)
	Otter Creek	Mouth (S29, T92N, R26W) to west line (S11, T92N, R26W)
	Prairie Creek	Mouth (S30, T93N, R26W) to west county line (S30, T93N, R26W)
	West Branch Iowa River	Mouth (S19, T93N, R23W) to north county line (S2, T93N, R24W)
	White Fox Creek	South county line (S34, T90N, R25W) to County Road R38 (S36, T91N, R25W)

TABLE 2

Major Water Sources—Lakes

County	Lake	Location
Adair	Greenfield Lake	1 mile Southwest of Greenfield
	Orient Lake	1 mile Southwest of Orient
	Meadow	6 miles Northeast of Greenfield
	Mormon Trail Lake	1½ miles Southeast of Bridgewater
	Nodaway Lake	2 miles Southwest of Greenfield
Adams	Binder Lake	1 mile Northeast of Corning
	Corning Reservoir	North edge of Corning
	Lake Icaria	4 miles North of Corning
Appanoose	Centerville Reservoir (Upper)	Southwest edge of Centerville
	Centerville Reservoir (Lower)	Southwest edge of Centerville
	Mystic Reservoir	½ mile North of Mystic
	Rathbun Reservoir	8 miles Northwest of Centerville
Audubon	Littlefield	4 miles East of Exira
Benton	Hannen Lake	4 miles Southwest of Blairstown
	Rodgers Park Lake	3½ miles Northwest of Vinton
Black Hawk	Alice Wyth Lake	North edge of Waterloo
	Big Woods Lake	Northwest edge of Cedar Falls
	Cedar Falls Reservoir	North edge of Cedar Falls
	East Lake (Quarry Lake)	North edge of Waterloo
	Fisher Lake	North edge of Waterloo
	George Wyth Lake	North edge of Waterloo
	Green Belt Lake	West edge of Waterloo
	Meyer Lake	Evansdale
	Mitchell Lake	Waterloo
	North Prairie Lake	Southwest edge of Cedar Falls
	South Prairie Lake	Southwest edge of Cedar Falls
Boone	Don Williams Lake	5 miles North of Ogden
	Sturtz	3 miles West of Boone
Bremer	Sweet Marsh (Martens Lake)	1 mile East of Tripoli
	Sweet Marsh (A)	2 miles East of Tripoli
	Waverly Impoundment	Waverly
Buchanan	Fontana Mill	½ mile South of Hazelton
	Independence Impoundment	Independence
	Kounty Pond	2½ miles Southeast of Brandon
Buena Vista	Gustafson Lake	1 mile South of Sioux Rapids
	Newell Pit	1½ miles Northwest of Newell
	Pickerel Lake	7 miles Northwest of Marathon
	Storm Lake	South edge of Storm Lake
Calhoun	Calhoun Wildlife Area	4 miles East of Manson
	Hwy. 4 Recreation Area	1 mile South of Rockwell City
	North Twin Lake	6 miles North of Rockwell City
	South Twin Lake	5 miles North of Rockwell City

County	Lake	Location
Carroll	Swan Lake	3 miles Southeast of Carroll
Cass	Cold Springs Lake	1 mile South of Lewis
	Lake Anita	½ mile South of Anita
Cerro Gordo	Blue Pit	Southwest edge of Mason City
	Clear Lake	South edge of Clear Lake
	Fin and Feather Lake	3 miles South, 1 mile East of Mason City
Cherokee	Larson Lake	2½ miles East, 2 miles North of Aurelia
	Spring Lake	South edge of Cherokee
Chickasaw	Airport Park Lake	S35, T96N, R13W
	Nashua Impoundment	Nashua
	Split Rock Park Lake	5 miles Southwest of Fredericksburg
Clarke	East Lake	½ mile East of Osceola
	West Lake	2 miles West of Osceola
Clay	Elk Lake	3 miles South, 1 mile West of Ruthven
	Trumbull Lake	4 miles West, 5 miles North of Ruthven
Clinton	Kildeer and Malone	4 miles East of DeWitt
Crawford	Ahart/Rudd Natural Resource Area	2 miles South of Dow City, S21, T82N, R40W
	Nelson Park Lake	3 miles West, 3 miles North of Dow City
	Yellow Smoke Park	2 miles East, 2 miles North of Denison
Dallas	Beaver	1½ miles North of Dexter
Davis	Lake Fisher	2 miles Northwest of Bloomfield
	Lake Wapello	7 miles West of Drakesville
Decatur	Little River Watershed Lake	1 mile West of Leon
	Nine Eagles Lake	3½ miles Southeast of Davis City
	Slip Bluff Lake	2 miles Northwest of Davis City
Delaware	Backbone Lake	4 miles Southwest of Strawberry Point
	Lake Delhi	3 miles West of Delhi
	Quaker Mills Impoundment	Northwest edge of Manchester
	Silver Lake	Southeast edge of Delhi
Des Moines	Fourth Pumping Plant	6 miles North, 5 miles East of Kingston

County	Lake	Location
Dickinson	Center Lake	2 miles West, ½ mile South of Spirit Lake
	Diamond	2 miles East, 2 miles North of Montgomery
	East Okoboji Lake	East edge of Okoboji
	Gar (Lower)	½ mile South of Arnolds Park
	Gar (Upper)	East of Arnolds Park
	Little Spirit Lake	4 miles North of Orleans
	Minnewashta	½ mile South of Arnolds Park
	Silver	West Edge of Lake Park
	Spirit Lake	1 mile North of Spirit Lake
	Swan Lake	2 miles North of Superior
	West Okoboji Lake	Northwest edge of Arnolds Park
Dubuque	Heritage Pond	2 miles North of Dubuque
Emmet	High Lake	6 miles East of Wallingford
	Ingham Lake	6 miles East of Wallingford
	Iowa Lake	6 miles North of Armstrong
	Tuttle Lake	1 mile East, 2 miles North of Dolliver
	West Swan	1½ miles South, 2 miles East of Gruver
Fayette	Lake Oelwein	Oelwein
	Volga Lake	3 miles North of Fayette
Franklin	Beeds Lake	2 miles West, 1 mile North of Hampton
	Interstate Park Pond	1 mile West, 2 miles South I-35 & Hwy. 3
	Maynes Grove Lake	4 miles South of Hampton on Hwy. 65
Fremont	McPaul “A”	2 miles South of Bartlett
	McPaul “B”	2 miles South of Bartlett
	Percival Lake	1 mile North of Percival
	Scott Lake “A”	1½ miles South of Bartlett
Greene	Spring Lake	4 miles Northwest of Grand Junction
Guthrie	Springbrook	7 miles North of Guthrie Center
Hamilton	Andersen Lake/Marsh	1 Mile East of Jewell
	Bjorkboda Marsh	S36, T86N, R26W
	Briggs Wood Lake	2 miles South of Webster City
	Gordons Marsh	S33 and 34, T88N, R26W
	Little Wall Lake	1½ miles South of Jewell
Hancock	Crystal Lake	North edge of Crystal Lake
	Eagle Lake	3 miles Northeast of Britt
	Eldred Sherwood Lake	3 miles East, 1 mile North of Goodell
	West Twin Lake	3 miles East of Kanawha
Hardin	Pine Lake (Lower)	½ mile East of Eldora
	Pine Lake (Upper)	½ mile East of Eldora
Harrison	DeSoto Bend	5 miles West of Missouri Valley
	Willow Lake	5½ miles West of Woodbine

County	Lake	Location
Henry	City of Westwood Pond	S11, T71N, R7W
	Crane's Pond	Mt. Pleasant
	East Lake Park Pond	Mt. Pleasant
	Geode Lake	4 miles Southwest of Danville
	Gibson Park Pond	S28, T71N, R7W
Howard	Lake Hendricks	½ mile Northeast of Riceville
Ida	Crawford Creek	3½ miles South of Battle Creek
	Moorehead Park Pond	½ mile North of Ida Grove
Iowa	Iowa Lake	5 miles North of Millersburg
Jackson	Green Island Lakes	1 mile East of Green Island
	Middle Sabula Lake	West edge of Sabula
Jasper	Mariposa Lake	5 miles Northeast of Newton
	Rock Creek Lake	4 miles Northeast of Kellogg
Johnson	Coralville Reservoir	4 miles North of Iowa City
	Kent Park Lake	2½ miles West of Tiffin
	Lake Macbride	4 miles West of Solon
Jones	Central Park Lake	2 miles West of Center Junction
Keokuk	Belva Deer Ponds (4)	5 miles Northeast of Sigourney
	Yen-Ruo-Gis	2 miles North of Sigourney
Kossuth	Burt Lake	4 miles West, 8 miles North of Sway City
	Smith	3 miles North of Algona
Lee	Chatfield Lake	3 miles Northwest of Keokuk
	Pollmiller Park Lake	½ mile East of West Point
	Shimek Forest Ponds (4)	1 mile East of Farmington
Linn	Pleasant Creek Lake	4 miles North of Palo
Louisa	Cone Marsh	10 miles Northwest of Columbus Jct.
	Indian Slough	4 miles Northwest of Wapello
	Iowa Slough	3 miles Southeast of Oakville
	Lake Odessa	5 miles East of Wapello
Lucas	Brown's Slough	7 miles Southeast of Russell
	Colyn North	4 miles South of Russell
	Colyn South	4 miles South of Russell
	Ellis Lake	1 mile East of Chariton
	Morris Lake	3 miles East of Chariton
	Red Haw Lake	1 mile East of Chariton
	Stephens Forest Ponds #1 & #2	3 miles Southwest of Lucas
	Williamson Pond	2 miles East of Williamson
Lyon	Fairview Pond	5 miles South, 3 miles West of Inwood
	Lake Pahoja	4 miles South, 2 miles West of Larchwood

County	Lake	Location
Madison	Badger Creek Lake	5 miles Southeast of Van Meter
	Winterset City Reservoir	2 miles Northeast of Winterset
Mahaska	Hawthorne Lake	1 mile South of Barnes City
	Lake Keomah	6 miles East of Oskaloosa
	White Oak Lake	3 miles South of Rose Hill
Marion	Red Rock	4 miles North of Knoxville
	Roberts Creek	6 miles Northeast of Knoxville
	Roberts Creek Lake	S28, 29, 33 and 34, Summit Twp.
Marshall	Green Castle Lake	1 mile South of Ferguson
Mills	Folsom Lake	2 miles West of Glenwood
	Keg Creek Lake	2 miles Southwest of Pacific Junction
	Mile Hill Lake	2 miles West of Glenwood
	P.J. Lake	1 mile Southwest of Pacific Junction
	Pony Creek Lake	3½ miles Northwest of Glenwood
Mitchell	Interstate Park	West edge of Mitchell
Monona	Blue Lake	3 miles West of Onawa
	Johnston Pit	1 mile East of Rodney
	McDonald Pit	1 mile East of Rodney
	Oldham Lake	1 mile North of Soldier
	Peters Park Pond	1 mile East of Rodney
	Savery	2 miles Southeast of Moorhead
	Utterback Pond	3 miles North, 3 miles West of Castana
Monroe	Albia (Upper)	1 mile North of Albia
	Albia (Lower)	1 mile North of Albia
	Cottonwood Pits	2 miles South of Albia
	Lattart	4 miles Southwest of Lovilla
	Lake Miami	5 miles Southeast of Lovilla
Montgomery	Hacklebarney East	4 miles North of Villisca
	Viking Lake	4 miles East of Stanton
Muscatine	Cone Lake	1½ miles East of Conesville
	Wiese Slough	2 miles Southeast of Atalissa
O'Brien	Dog Creek Lake	2 miles East, ½ mile South of Sutherland
	Douma Area Park Pond	2 miles West, 1 mile South of Sanborn
	Hagan Wildlife Pond	S13, T95N, R41W
	Mill Creek Lake	1 mile East of Paullina
	Negus Wildlife Area Pond	S30, T94N, R39W
	Tjossem Park Ponds	S6, T95N, R40W

County	Lake	Location
Osceola	Ashton Park Lake	S14, T98N, R42W
	Ashton Pits Access Area	S11, T98N, R42W
	Iowa Lake	S9, T100N, R39W
	Leinen Pits	S25, T99N, R42W
	May City Pit	S5, T98N, R39W
	Ocheyedan Pits	2 miles South of Ocheyedan
	Peters Pits	S19, T100N, R42W
	Thomas Pit	S36, T99N, R40W
	Willow Creek Lake	S31, T100N, R40W
Page	Pierce Creek Lake/Pond	5 miles North of Shenandoah
	Ross Area	8 miles Southeast of Clarinda
Palo Alto	Five Island Lake	North edge of Emmetsburg
	Lost Island Lake	3 miles North of Ruthven
	Rush Lake	9 miles West of Mallard
	Silver Lake	2 miles West of Ayrshire
	Virgin Lake	2 miles South of Ruthven
Plymouth	Deer Creek	11 miles West, 1 mile South, 1½ miles West of Merrill
	Hillview Lake	1 mile Northwest of Hinton
	Silver Maple Primitive Area Lake	3 miles Southeast of Akron
	Southeast Wildwood Park Pond	3 miles Northeast of Kingsley
Polk	Big Creek Lake	2 miles North of Polk City
	Bondurant	Northeast edge of Bondurant
	Carney Marsh	Ankeny
	Case's Lake	Des Moines, S13, T78N, R24W
	Dale Maffitt Reservoir	6 miles Southwest of Des Moines
	Easter Lake Park	Southeast edge of Des Moines
	Engledinger Marsh	6 miles Northwest of Bondurant
	Ft. Des Moines Pond	South edge of Des Moines
	Grays Lake	Fleur Dr., Des Moines
	Saylorville Reservoir	North edge of Des Moines
	Skull Pond	Jester Park near Polk City
	Teal Pond	Jester Park near Polk City
	Thomas Mitchell Park Pond	2 miles Southwest of Mitchellville
	Two Dam Pond	Jester Park near Polk City
	Yellow Banks Park Pond	4 miles Southeast of Pleasant Hill
Pottawattamie	Arrowhead Pond	1½ miles Southeast of Neola
	Carter Lake	Carter Lake
	Lake Manawa	Southwest edge of Council Bluffs
Poweshiek	Arbor Lake	Grinnell
	Diamond Lake	1 mile West of Montezuma
Ringgold	Loch Ayr	2 miles North of Mt. Ayr
	Old Reservoir	½ mile North of Mt. Ayr
	Walnut Creek Marsh	5 miles Southwest of Mt. Ayr

County	Lake	Location
Sac	Arrowhead Lake	South Side of Lake View
	Black Hawk Lake	East edge of Lake View
	Black Hawk Pits	1½ miles South of Lake View
Scott	Crow Creek	East edge of Mt. Joy
	West Park Lakes (4)	¼ mile West of Davenport
Shelby	Mantano Park Pond	8 miles Northwest of Defiance
	Prairie Rose	8 miles Southeast of Harlan
Story	Dakin's Lake	½ mile North of Zearing
	Hendrickson Marsh	3 miles Northeast of Collins
	Hickory Grove Lake	3 miles Southwest of Colo
	McFarland Lake	4 miles Northeast of Ames
	Peterson Pits	4 miles Northeast of Ames
Tama	Casey Lake	7 miles North of Dysart
	Otter Creek Lake	6 miles Northeast of Toledo
	Union Grove Lake	4 miles South of Gladbrook
Taylor	East Lake	½ mile North of Lenox
	Lake of Three Fires	3 miles Northeast of Bedford
	West Lake	1 mile North of Lenox
	Wilson Park Lake	2½ miles Southeast of Lenox
	Windmill Lake	3½ miles East of New Market
Union	Afton City Reservoir	1 mile West of Afton
	Green Valley Lake	2½ miles Northwest of Creston
	Summitt Lake	West edge of Creston
	Three Mile Creek Lake	East of Creston
	Twelve Mile Creek Lake	4 miles East of Creston
Van Buren	Indian Lake	1 mile Southwest of Farmington
	Lacey-Keosauqua Park Lake	1 mile Southwest of Keosauqua
	Lake Miss-Tug Fork W	5 miles Southwest of Keosauqua
	Lake Sugema	3 miles Southwest of Keosauqua
	Piper's Pond-Tug Fork E	5 miles Southwest of Keosauqua
Wapello	Arrowhead Lake	3 miles Southeast of Ottumwa
	Ottumwa Reservoir	Ottumwa
Warren	Banner Pits	4½ miles North of Indianola
	Lake Ahquabi	5 miles Southwest of Indianola
Washington	Lake Darling	3 miles West of Brighton
Wayne	Bob White Lake	1 mile West of Allerton
	Corydon Reservoir	West edge of Corydon
	Humeston Reservoir	1 mile North of Humeston
	Lineville Reservoir	North edge of Lineville
	Medicine Creek Wildlife Area Complex	6 miles East of Lineville
	Seymour Reservoir	½ mile South of Seymour

County	Lake	Location
Webster	Badger Lake	4½ miles North of Fort Dodge
	Brushy Creek Lake	5 miles Northeast of Lehigh
Winnebago	Ambrosson Pits	3½ miles North of Forest City
	Lake Catherine	6 miles West of Forest City
	Rice Lake	1 mile South, 1 mile East of Lake Mills
Winneshiek	Lake Meyers	3 miles Southwest of Calmar
Woodbury	Bacon Creek	East edge of Sioux City
	Browns Lake	2 miles West of Salix
	Little Sioux Park Lake	2 miles South of Correctionville
	Snyder Bend Lake	1½ miles West of Salix
	Southwood	½ mile West, ½ mile South of Smithland
Worth	Kuennen's Pit	2 miles South, ½ mile East of Northwood
	Silver Lake	10 miles West, 3½ miles North of Northwood
Wright	Lake Cornelia	3½ miles North, 2 miles East of Clarion
	Morse Lake	3½ miles West of Belmond
	Wall Lake	10 miles Southeast of Clarion

TABLE 3

Annual Pounds of Nitrogen Per Space of Capacity

Source: PM 1811, Managing Manure Nutrients for Crop Production

Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	2	1	5
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	21		29
Wet/dry feeders	1 head	19		29
Earthen storage**	1 head	14		29
Lagoon***	1 head		6	29
Gestation, 400 lb.	1 head	27	5	39
Sow & Litter, 450 lb.	1 crate	32	11	86
Farrow-nursery	Per sow in breeding herd	22	8	85
Farrow-finish	Per sow in breeding herd	150	44	172

Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	164	59	140
Heifers, 900 lb.	1 head	81	44	65
Calves, 500 lb.	1 head	45	24	15
Veal calves, 250 lb.	1 head	22	12	10
Dairy herd	Per productive cow in herd	169	87	180

Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	105	23	147
Finishing, 900 lb.	1 head	95	19	132
Feeder calves, 500 lb.	1 head	53	11	73

Poultry	Space	Dry Manure
Layer, cages	1000 head	367
Broiler, litter	1000 head	585
Turkeys, litter	1000 head	1400

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

TABLE 3a

Annual Pounds of Phosphorus (as P_2O_5) Per Space of Capacity

Source: PM 1811, Managing Manure Nutrients for Crop Production

Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	1	0.7	3
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	15		18
Wet/dry feeders	1 head	13		18
Earthen storage**	1 head	10		18
Lagoon***	1 head		5	18
Gestation, 400 lb.	1 head	27	4	25
Sow & Litter, 450 lb.	1 crate	26	8	55
Farrow-nursery	Per sow in breeding herd	18	6	55
Farrow-finish	Per sow in breeding herd	109	33	110

Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	78	44	42
Heifers, 900 lb.	1 head	38	33	20
Calves, 500 lb.	1 head	22	18	5
Veal calves, 250 lb.	1 head	10	9	3
Dairy herd	Per productive cow in herd	80	66	80

Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	66	17	73
Finishing, 900 lb.	1 head	59	14	66
Feeder calves, 500 lb.	1 head	33	8	37

Poultry	Space	Dry Manure
Layer, cages	1000 head	840
Broiler, litter	1000 head	585
Turkeys, litter	1000 head	1400

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

TABLE 4

Crop Nitrogen Usage Rate Factors

Corn	Zone 1	0.9 lbs/bu	Orchard grass	38.0 lbs/ton
	Zone 2	1.1 lbs/bu	Tall fescue	38.0 lbs/ton
	Zone 3	1.2 lbs/bu	Switch grass	21.0 lbs/ton
Corn silage		7.5 lbs/ton	Vetch	56.0 lbs/ton
Soybeans		3.8 lbs/bu	Red clover	43.0 lbs/ton
Oats		0.75 lbs/bu	Perennial rye grass	24.0 lbs/ton
Alfalfa		50.0 lbs/ton	Timothy	25.0 lbs/ton
Wheat		1.3 lbs/bu	Wheat straw	13.0 lbs/ton
Smooth brome		40.0 lbs/ton	Oat straw	12.0 lbs/ton
Sorghum or Sudan grass		40.0 lbs/ton		

The following map outlines the three zones for the corn nitrogen usage rates indicated in the Table 4. Zone 1 corresponds to the Moody soil association. Zone 2 corresponds to the Marshall, Monona-Ida-Hamburg, and Galva-Primghar-Sac soil associations. Zone 3 corresponds to the remaining soil associations.

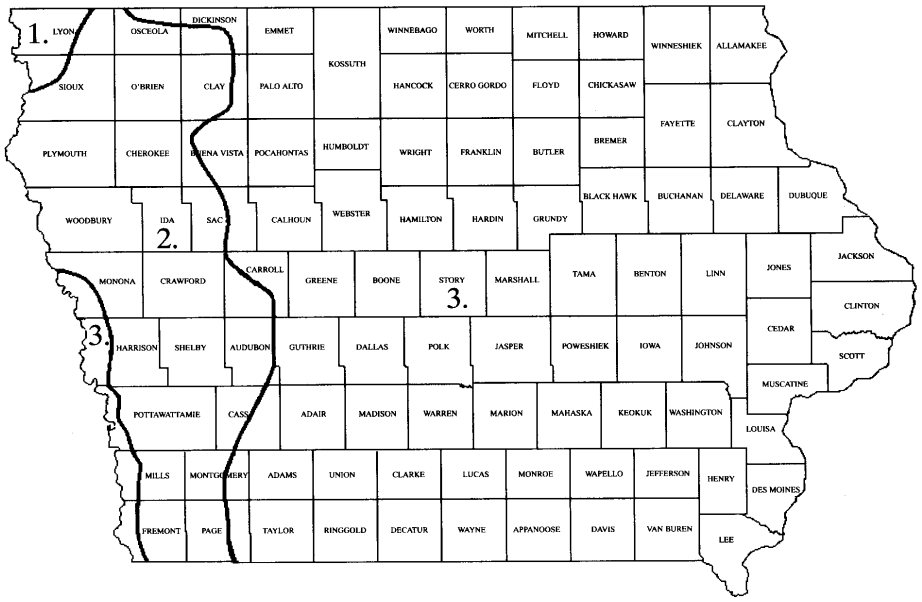


TABLE 4a

Phosphorus Removal for Iowa Crops

Source: PM 1688, General Guide for Crop Nutrient Recommendations in Iowa

CROP	UNITS	P_2O_5 (pounds/unit)
Corn	bu.	0.375
Corn silage	ton (65% H_2O)	3.5
Soybeans	bu.	0.8
Alfalfa	ton	12.5
Oat and straw	bu.	0.4
Wheat	bu.	0.6
Smooth brome	ton	9
Orchard grass	ton	14
Tall fescue	ton	12
Switch grass	ton	12
Sorghum-Sudan	ton	12
Vetch	ton	12
Red clover	ton	12
Perennial rye grass	ton	12
Timothy	ton	9
Wheat straw	ton	4
Oat straw	ton	5

TABLE 5

Manure Production Per Space of Capacity

		Daily		Yearly
Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	0.2 gal	0.7 gal	0.34 tons
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	1.2 gal		2.05 tons
Wet/dry feeders	1 head	0.90 gal		2.05 tons
Earthen storage**	1 head	1.2 gal		2.05 tons
Lagoon***	1 head		4.1 gal	2.05 tons
Gestation, 400 lb.	1 head	3.0 gal	3.7 gal	2.77 tons
Sow & Litter, 450 lb.	1 crate	3.5 gal	7.5 gal	6.16 tons
Farrow-nursery	Per sow in breeding herd	2.2 gal	5.4 gal	6.09 tons
Farrow-finish	Per sow in breeding herd	9.4 gal	30 gal	12.25 tons
Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	18.0 gal	40.1 gal	14 tons
Heifers, 900 lb.	1 head	8.8 gal	29.9 gal	6.5 tons
Calves, 500 lb.	1 head	4.9 gal	16.5 gal	1.5 tons
Veal calves, 250 lb.	1 head	2.5 gal	8.2 gal	1.1 tons
Dairy herd	Per productive cow in herd	18.5 gal	59.8 gal	20 tons
Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	7.2 gal	15.7 gal	12.23 tons
Finishing, 900 lb.	1 head	6.5 gal	13.1 gal	11.00 tons
Feeder calves, 500 lb.	1 head	3.6 gal	7.3 gal	6.11 tons
Poultry	Space			Dry Manure
Layer, cages	1000 head			10.5 tons
Broiler, litter	1000 head			9.00 tons
Turkeys, litter	1000 head			35.00 tons

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

TABLE 6

Required Separation Distances—Swine, Sheep, Horses, Poultry, and Beef and Dairy Cattle

DISTANCES TO BUILDINGS AND PUBLIC USE AREAS				
Type of Structure	Animal Unit (AU) Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	<1,000 AU	1,875 feet	1,875 feet	1,875 feet
	1,000 to <3,000 AU	2,500 feet	2,500 feet	2,500 feet
	3,000 AU or more	3,000 feet	3,000 feet	3,000 feet
Covered earthen manure storage basins	<1,000 AU	1,250 feet	1,875 feet	1,875 feet
	1,000 to <3,000 AU	1,875 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,375 feet	3,000 feet	3,000 feet
Uncovered formed manure storage structures	<1,000 AU	1,500 feet	1,875 feet	1,875 feet
	1,000 to <3,000 AU	2,000 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,500 feet	3,000 feet	3,000 feet
Confinement buildings and covered formed manure storage structures	<1,000 AU	1,250 feet	1,875 feet	1,875 feet
	1,000 to <3,000 AU	1,875 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,375 feet	3,000 feet	3,000 feet
Egg washwater storage structures	<1,000 AU	1,000 feet	1,875 feet	1,875 feet
	1,000 to <3,000 AU	1,500 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,000 feet	3,000 feet	3,000 feet

DISTANCES TO WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin, egg washwater storage structure and open feedlot runoff control basin	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure, confinement building, open feedlot solids settling facility and open feedlot	200 feet	100 feet	200 feet	100 feet

OTHER DISTANCES FOR ANIMAL FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead, cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Excluding small feeding operations)	100 feet

See rule 567 IAC 65.12(455B) for exemptions available from the above distances

TABLE 7

Required Separation Distances—Beef and Dairy Cattle

Rescinded IAB 2/19/03, effective 3/1/03

TABLE 8

Summary of Credit for Mechanical Aeration

	Pounds Volatile Solids per 1000 cubic feet			
% of Oxygen Supplied	Beef	Other than Beef		
	Daily max in all counties	Less than or equal to 6000 lb vs. daily max	Less than or equal to 6000 lb vs. daily max in counties listed in 65.15(13)*"b"*(2) above	Greater than 6000 lb vs. daily max in all counties
0-50	10.0	5.0	4.5	4.0
50	12.5	6.3	5.6	5.0
60	13.3	6.6	6.1	5.5
70	14.0	7.0	6.5	6.0
80	14.8	7.4	6.9	6.5
90	15.5	7.8	7.4	7.0
100	16.3	8.1	7.8	7.5
110	17.0	8.5	8.3	8.0
120	17.8	8.9	8.7	8.5
130	18.5	9.3	9.1	9.0
140	19.3	9.6	9.6	9.5
150	20.0	10.0	10.0	10.0

[Filed 6/28/76, Notice 3/22/76—published 7/12/76, effective 8/16/76][1]
[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]
[Filed 8/24/84, Notice 5/9/84—published 9/12/84, effective 10/18/84]
[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]
[Filed 5/29/87, Notice 12/3/86—published 6/17/87, effective 7/22/87]
[Filed without Notice 8/26/94—published 9/14/94, effective 10/19/94]
[Filed emergency 7/19/95—published 8/16/95, effective 7/19/95]
[Filed emergency 9/22/95—published 10/11/95, effective 9/22/95]
[Filed 1/26/96, Notice 11/8/95—published 2/14/96, effective 3/20/96]
[Filed 9/20/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]
[Filed 11/26/97, Notice 8/13/97—published 12/17/97, effective 1/21/98]
[Filed 3/19/99, Notice 12/30/98—published 4/7/99, effective 5/12/99]
[Filed emergency 12/21/99—published 1/12/00, effective 12/21/99]
[Filed emergency 11/22/00—published 12/13/00, effective 11/22/00]
[Filed emergency 5/25/01 after Notice 3/21/01—published 6/13/01, effective 7/8/01]
[Filed emergency 6/21/01 after Notice 3/21/01—published 7/11/01, effective 7/1/01]
[Filed 8/31/01, Notice 7/11/01—published 9/19/01, effective 10/24/01]
[Filed emergency 9/18/01 after Notice 6/13/01—published 10/17/01, effective 9/18/01]
[Filed 12/19/01, Notice 9/19/01—published 1/9/02, effective 2/13/02]
[Filed 4/26/02, Notice 2/20/02—published 5/15/02, effective 6/19/02]
[Filed 5/24/02, Notice 3/20/02—published 6/12/02, effective 7/17/02]
[Filed emergency 6/18/02—published 7/10/02, effective 6/18/02]
[Filed emergency 7/23/02—published 8/21/02, effective 7/23/02]
[Filed emergency 12/17/02 after Notice 9/18/02—published 1/8/03, effective 2/1/03]
[Filed emergency 1/30/03 after Notice 11/13/02—published 2/19/03, effective 3/1/03]
[Filed 4/24/03, Notice 1/8/03—published 5/14/03, effective 6/18/03]
[Filed without Notice 10/23/03—published 11/12/03, effective 1/1/04]

[Filed 1/29/04, Notice 8/20/03—published 2/18/04, effective 3/24/04]
[Filed 7/1/04, Notice 2/18/04—published 7/21/04, effective 8/25/04][2]
[Filed 4/22/05, Notice 10/13/04—published 5/11/05, effective 6/15/05]
[Filed 4/22/05, Notices 11/10/04, 2/16/05—published 5/11/05, effective 6/15/05]
[Filed emergency 8/23/05—published 9/14/05, effective 9/14/05]
[Filed 2/9/06, Notice 11/9/05—published 3/1/06, effective 4/5/06]
[Filed 3/23/06, Notice 9/14/05—published 4/12/06, effective 5/17/06]
[Filed emergency 4/10/06—published 4/26/06, effective 5/17/06]
[Filed 6/28/06, Notice 12/21/05—published 7/19/06, effective 8/23/06]
[Filed 6/28/06, Notice 2/15/06—published 7/19/06, effective 8/23/06]
[Filed 3/19/08, Notice 1/3/07—published 4/9/08, effective 5/14/08]
[Editorial change: IAC Supplement 9/24/08]

[1] Effective date of Chapter 65 [DEQ, ch 20] delayed by the Administrative Rules Review Committee until October 25, 1976, pursuant to Iowa Code section 17A.4 amended by S.F. 1288, §8.

[2] Effective date of 65.17(13)*"e"* delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004.

At its August 8, 2006, meeting, the Administrative Rules Review Committee voted to object to the provisions of **ARC 5243B***, rules 567 IAC 65.5(3) and 65.103(5), on the grounds they are beyond the authority delegated to the Department of Natural Resources (Department). This filing was adopted by the Environmental Protection Commission (EPC) and published in IAB Vol. XXIX, No. 2 (7-19-2006). The Committee takes this action pursuant to the authority of Code section 17A.4, subsection 5.

This filing allows the Department to evaluate proposed animal feeding operation sites based on a number of factors that are specifically set out in the rules. After completing its evaluation, the adopted rules authorize the director of the Department to take a variety of actions to condition or deny a construction permit, to modify or disapprove a manure management plan, or to prohibit construction of a proposed confinement feeding operation that is otherwise in compliance with the provisions of Chapter 65 of the EPC rules.

It is the opinion of the Committee that Code chapters 459 and 459A establish the procedures and standards relating to the issuance of construction permits and the approval of manure management plans, and that the Department does not have authority to create additional procedures and standards by rule. The master matrix was created by Code section 459.305 in order "...to provide a *comprehensive* [emphasis added] assessment mechanism in order to produce a statistically verifiable basis for determining whether to approve or disapprove an application for the construction, including expansion, of a confinement feeding operation structure..." Section 459.305, subsection 1, paragraph "a", further states:

> "The master matrix shall be used to establish conditions for the construction of a confinement feeding operation structure and for the implementation of manure management practices, which conditions shall be included in the approval of the construction permit or the original manure management plan as applicable."

The Committee believes this statutory language demonstrates a clear legislative intent that the matrix is the exclusive mechanism for the evaluation and approval of an application for the construction or expansion of a confinement feeding operation structure and for the implementation of manure management practices.

*Objection to 567 IAC 65.5(3) and 65.103(5) filed October 10, 2006.

PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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[Prior to 7/11/01, see 645—Chapter 240]
Rescinded IAB 9/24/08, effective 10/29/08

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CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of psychology.

"Certified health service provider in psychology" means a person who works in a clinical setting, is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

"License expiration date" means June 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"National examination" means the Examination for Professional Practice in Psychology (EPPP).

"Organized health service training program" means a training program designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is ensuring breadth and quality of training.

"Reactivate" or *"reactivation"* means the process as outlined in rule 240.18(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice psychology to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of psychology to license persons who have the same or similar qualifications to those required in Iowa.

"Recognized health service setting" means a setting in which the delivery of direct preventive, assessment, and therapeutic intervention services are provided to individuals whose growth, adjustment or functioning is actually impaired or is demonstrably at high risk of impairment. The delivery of the aforementioned services includes, but is not limited to, the diagnosis or evaluation and treatment of mental illness and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervisor" means a licensed psychologist who meets the qualifications stated in these rules.

"Testing service" means Professional Examination Service (PES).

645—240.2(154B) Requirements for licensure.

240.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

d. No application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board;

(2) Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors; and

(3) Rescinded IAB 9/24/08, effective 10/29/08.

(4) Rescinded IAB 9/4/02, effective 10/9/02.

e. An applicant shall successfully pass the national examination.

f. The applicant shall have the national examination score sent directly from the testing service to the board.

g. Rescinded IAB 9/24/08, effective 10/29/08.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

240.2(2) and **240.2(3)** Rescinded IAB 9/4/02, effective 10/9/02.

645—240.3(154B) Educational qualifications. A new applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.

240.3(2) Rescinded IAB 9/24/08, effective 10/29/08.

240.3(3) At the time of an applicant's graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology; or

b. The applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

240.3(4) Foreign-trained psychologists shall:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology, 1120 G Street NW, Suite 330, Washington, D.C. 20005, telephone (202)783-7663, Web site www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The

candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in 240.3(3).

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Submit evidence of meeting all other requirements for licensure stated in these rules.

d. Receive a final determination from the board regarding the application for licensure.

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs *"a"* to *"c"*; and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology.

240.4(2) Notification of an applicant's eligibility for the examination shall be sent by the board office to the testing service.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall mail examination results to the applicant.

240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.

645—240.5(154B) Title designations.

240.5(1) Applicants for licensure who have met educational requirements but have not yet passed the EPPP may be designated "psychology associate" or "associate in psychology." The title "psychology associate" or "associate in psychology" shall not be used except in the person's employment and supervision that meet the requirements of subrule 240.6(2).

240.5(2) Applicants for licensure who have passed the EPPP and who are fulfilling the experience requirements specified herein for licensure may be designated "psychology resident" or "resident in psychology." The designation of "resident" shall not be used except in the employment and supervised experience that meet the requirements of subrule 240.6(2).

240.5(3) Applicants for licensure who are engaged in organized health service training programs as specified in rule 645—240.7(154B) shall use one of the titles specified in paragraph 240.7(2)*"i."*

240.5(4) Persons licensed in another state who are in the process of seeking licensure in Iowa and who are being supervised until obtaining an Iowa license may use the designation "Licensed Psychologist, (name of state)" for a period of up to one year from the date of application.

645—240.6(154B) Supervised professional experience.

240.6(1) The supervised professional experience shall:

a. Be at least one year or a minimum of 1500 hours of supervised professional experience;

b. Apply the principles of psychology;

c. Be supervised by a licensed psychologist as specified in subrule 240.6(2) or rule 240.9(154B);

d. Be performed competently as attested to by the supervisor;

e. Have the fees and receipt of payment schedule remain the sole domain of the employing agency or supervising psychologist.

240.6(2) Requirements.

a. To meet the requirements of the supervised professional experience, the supervisee must:

(1) Meet a minimum of one hour per week, face to face and individually with the supervisor;

(2) Have training that is appropriate to the functions to be performed;

(3) Work in the same physical setting as the supervisor unless otherwise approved by the board;

(4) Offer work in the name of the supervising psychologist;

(5) Begin the experience after all academic requirements for the doctoral degree are met and when all degree requirements are verified in writing;

(6) Not apply professional employment that occurs prior to meeting the doctoral academic requirements to the supervised professional experience;

(7) Compute part-time employment on a prorated basis for the supervised professional experience; and

(8) Have the background, training, and experience that is appropriate to the functions performed.

b. To meet the requirements of the supervised professional experience, the supervisor must:

(1) Be a licensed psychologist as specified in rule 240.2(154B) or 240.9(154B);

(2) Complete the supervision form provided by the board;

(3) Meet a minimum of one hour per week, face to face and individually with the supervisee;

(4) Provide training that is appropriate to the functions to be performed;

(5) Work in the same physical setting as the supervisee unless otherwise approved by the board;

(6) Have work offered in the name of the supervising psychologist;

(7) Have no more than three full-time persons associated with the supervisor as listed on the supervisor report form obtained from the board;

(8) Not provide group supervision as part of this experience;

(9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; and

(10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.

240.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctoral degree will be applicable only to the doctoral degree requirements and may not be simultaneously offered to satisfy the supervised professional experience requirement.

240.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the doctoral degree and the time of the actual conferral of the degree may be credited toward the professional employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Verification must come directly to the board from the academic official.

240.6(5) Persons providing psychological services who are not licensed by the board of psychology shall be under the direct and continuing administrative and professional direction of a psychologist licensed by the board.

645—240.7(154B) Certified health service provider in psychology.

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology. Two years of clinical experience means two years of supervised experience in health service in psychology, of which at least one year is in an organized health service training program as defined in subrule 240.7(2) and one year is postdoctoral.

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license renewal fees are due.

240.7(2) *Requirements of the health service training program.* The organized health service training program shall:

a. Have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who holds an active license from the board of psychology in the state in which the program exists.

b. Have two or more psychologists on the staff as supervisors, at least one of whom holds an active license as a psychologist from the board of psychology in the state in which the program exists.

c. Have supervision which is provided by a staff member of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more psychologists.

d. Provide training in a range of assessment and treatment activities conducted directly with patients seeking psychological services.

e. Have a minimum of 375 hours of trainees' time in direct patient contact.

f. Include a minimum of two hours per week (regardless of whether the internship is completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved; seminars dealing with clinical issues; cotherapy with a staff person including discussion; group supervision; additional individual supervision.

g. Have training that is at the postclerkship, postpracticum, and postexternship level.

h. Have a minimum of two interns at the internship level of training during any period of training.

i. Designate for internship-level trainees titles such as "intern," "resident," "fellow," or other designation of trainee status.

j. Have a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees' work and is made available to prospective interns.

k. Provide a minimum of 1800 hours of training experience that shall be completed within 24 consecutive months and no less than 12 months.

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file a summary of intent to practice and provide verification of the license from the other jurisdiction. The summary shall be submitted to and approved by the board prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

The summary and supporting documentation shall be accompanied by a check or money order for the processing fee for exemption to licensure pursuant to 645—Chapter 243. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.

5. Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

6. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

7. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. Maintain an ongoing record of supervision which details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. Countersign all written reports and communications as "Reviewed and Approved" by the supervising psychologist.

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides one of the following: the official EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards, or verification of the EPPP score sent directly from the state of initial licensure. The passing score is established by the Association of State and Provincial Psychology Boards.

240.10(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

240.10(5) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

a. Provides:

(1) Official copies of academic transcripts that have been sent directly from the school; and

(2) Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

b. Has an official copy of one of the following certifications sent directly to the board from the certifying organization.

(1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.

(2) Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology.

(3) Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.10(6) Rescinded IAB 9/24/08, effective 10/29/08.

645—240.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure in psychology.

645—240.12(147) License renewal.

240.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

240.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

240.12(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

240.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.12(6) A person licensed to practice as a psychologist shall keep the person's license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.12(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

b. No continuing education shall be required.

240.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—240.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.15(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.16(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.17(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.18(1) Submit a reactivation application on a form provided by the board.

240.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.18(3) Provide verification of current competence to practice as a psychologist or health service provider in psychology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—240.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 240.18(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]
[Filed 2/15/02, Notice 12/12/01—published 3/6/02, effective 4/10/02]
[Filed 8/16/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed 8/27/03, Notice 5/28/03—published 9/17/03, effective 10/22/03]
[Filed 2/10/04, Notice 11/26/03—published 3/3/04, effective 4/7/04]
[Filed 11/12/04, Notice 7/21/04—published 12/8/04, effective 1/12/05]
[Filed 11/12/04, Notice 9/1/04—published 12/8/04, effective 1/12/05]
[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◊]
[Filed 11/9/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]
[Filed 2/3/06, Notice 12/7/05—published 3/1/06, effective 4/5/06]
[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

◊ Two or more ARCs

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of psychology.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a psychologist in the state of Iowa.

"Practice of psychology" means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—241.3(154B,272C) Standards.

241.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) *Specific criteria.*

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.12(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(4) Conducting scholarly research or other activities that integrally relate to the practice of psychology, the results of which are published in a recognized professional publication.

(5) Preparing new courses that have received approval from the board.

(6) Completing home study courses for which a certificate of completion is issued.

(7) Completing electronically transmitted courses for which a certificate of completion is issued.

(8) Attending workshops, conferences, or symposiums that meet the criteria in rule 645—241.3(154B,272C).

d. A combined maximum of 20 hours of credit per biennium may be used for scholarly research and preparation of new courses.

645—241.4(154B,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.5(154B,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.6(154B,272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.7(154B,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.8(272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.10(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

[Filed 9/1/00, Notice 7/12/00—published 9/20/00, effective 10/25/00]
[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]
[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◊]
[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

◊ Two or more ARCs

CHAPTER 242
DISCIPLINE FOR PSYCHOLOGISTS
[Prior to 7/11/01, see 645—Chapter 240]

645—242.1(154B) Definitions.

"Board" means the board of psychology.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice psychology in Iowa.

645—242.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—242.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

242.2(1) Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's Web site at http://www.apa.org.

242.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

242.2(3) Professional incompetence. Professional incompetence includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other psychologists in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average psychologist acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed psychologist in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and component manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

242.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of psychology or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

242.2(5) Practice outside the scope of the profession.

242.2(6) Use of untruthful or improbable statements in advertisements.

242.2(7) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

242.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

242.2(9) Falsification, alteration or destruction of client or patient records with the intent to deceive.

242.2(10) Acceptance of any fee by fraud or misrepresentation.

242.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

242.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice psychology. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

242.2(13) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of psychology.

242.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

242.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of psychology in another state, district, territory or country.

242.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

242.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

242.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

242.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

242.2(20) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

242.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

242.2(22) Failure to pay costs assessed in any disciplinary action.

242.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

242.2(24) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

242.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice psychology.

242.2(26) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure.

242.2(27) Representing oneself as a licensed psychologist when one's license has been suspended or revoked, or when one's license is on inactive status.

242.2(28) Permitting another person to use the licensee's license for any purpose.

242.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice psychology.

242.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

242.2(31) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

242.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—242.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—242.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—242.5(154B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

242.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

242.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an

alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

242.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

242.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

242.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

242.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

242.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 154B and 272C.

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]
[Filed 8/27/03, Notice 5/28/03—published 9/17/03, effective 10/22/03]
[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05]
[Filed 11/9/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]
[Filed 2/3/06, Notice 12/7/05—published 3/1/06, effective 4/5/06]
[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

CHAPTER 243
FEES
Rescinded IAB 9/24/08, effective 10/29/08

CHAPTERS 244 to 248
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CHAPTER 249
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 250 to 259
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SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 354
FEES
Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 355
PETITIONS FOR RULE MAKING
Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 356
DECLARATORY RULINGS
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CHAPTER 357
AGENCY PROCEDURE FOR RULE MAKING
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CHAPTER 358
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
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CHAPTER 359
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CHAPTER 360
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE
BOARD OF INTERPRETER FOR THE HEARING IMPAIRED EXAMINERS
Rescinded IAB 9/24/08, effective 10/29/08

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361 LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 362 CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 363 DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361
LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions shall apply:

"Active interpreter or transliterator services" means the actual time spent personally providing interpreting or transliterating services. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

"Active license" means a license that is current and has not expired.

"Board" means the board of sign language interpreters and transliterators.

"Direct supervision of a temporary license holder" means board review of a temporary license holder's evidence of professional development and continuing educational training or in-person monitoring of interpreting or transliterating services in the same room as the temporary license holder providing those services, as outlined in subrule 361.2(6).

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

"License expiration date" means June 30 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 361.9(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of sign language interpreters and transliterators to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervisor" means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Sign Language Interpreters and Transliterators,

Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Sign Language Interpreters and Transliterators. The fees are nonrefundable.

d. No application will be considered by the board until the applicant successfully passes one of the following examinations:

(1) National Association of the Deaf (NAD) examination level III or above; or

(2) One of the following examinations of the Registry of Interpreters for the Deaf National Testing System (NTS):

1. Certificate of Interpretation (CI); or
2. Certificate of Transliterating (CT); or
3. Certificate of Interpretation/Certificate of Transliterating (CI/CT); or
4. Interpreting Certificate/Transliterating Certificate (IC/TC); or
5. Comprehensive Skills Certificate (CSC); or
6. Certificate Deaf Interpreter (CDI); or

(3) The National Council on Interpreting National Interpreters Certification (NIC) Generalist Test, Certified Deaf Interpreter Test, or Oral Transliteration Test;

(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999; or

(5) The Cued Language Transliterator National Certification Examination (CLTNCE).

e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Sign Language Interpreters and Transliterators.

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

361.2(4) An applicant for licensure who has not successfully completed the board-approved examination set forth in paragraph 361.2(1)*"d"* but has complied with all other requirements in paragraphs 361.2(1)*"a"* through *"c"* shall be issued a temporary license to practice interpreting through the end of the then-current biennial license period. A temporary license holder may renew a temporary license once, for the immediately following biennial license period.

361.2(5) An applicant who is issued a temporary license is subject to the same criteria as a licensed interpreter or transliterator as defined in Iowa Code chapters 154E and 147 and 645—Chapters 361 through 363.

361.2(6) Beginning July 1, 2007, a temporary license holder shall be required to:

a. Provide to the board, by June 30 of each year in which the temporary license is held, demographic, educational and professional study information on a form prescribed by the board; and

b. Meet the requirements of either subparagraph (1) or (2) for the biennial license period:

(1) Provide services under the direct supervision of a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3. Providing such services under this subparagraph requires the temporary license holder during each year of the biennial license period to:

1. Have a supervisor observe the temporary license holder in active practice for no fewer than six consecutive, bimonthly (a total of six per year) on-site observation sessions at events lasting at least 30 minutes, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes, if the temporary license holder is working in a team interpreting situation.

2. Attend at least six consecutive, bimonthly (a total of six per year) advisory sessions with the supervisor for the purpose of discussing the supervisor's suggestions for professional skill development based on the on-site observation sessions. An advisory session may occur immediately following an

on-site observation session if the setting is appropriate. The advisory session shall involve only the temporary license holder and supervisor.

3. Enter into a written agreement with the supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in numbered paragraphs 361.2(6)*"b"*(1)"1" and "2." The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder's and supervisor's names, addresses and contact information; and shall be provided to the board upon request.

4. Maintain an event log documenting the date, time, length of observation and setting of each on-site observation session and advisory session. The temporary license holder shall ensure that the supervisor places initials beside each event entry to verify the occurrence of the observation or advisory session. This event log shall be provided to the board upon request.

5. Ensure that the supervisor attends both the on-site observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

6. Comply with the required on-site observation and advisory session obligations. If there is a need to change supervisors for any reason, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. Changes in supervisors shall not excuse noncompliance with on-site observation and advisory session obligations.

7. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

(2) Complete during each year of the biennial license period a minimum of 30 hours (3.0 CEUs) of continuing education in areas of professional studies that conform to the requirements of 645—subparagraph 362.3(2)*"a"*(2). The temporary license holder shall submit to the board copies of certificates of completion issued to the temporary license holder evidencing successful completion of continuing education courses meeting the requirements of 645—subparagraph 362.3(2)*"a"*(2). Submittal of the copies of certificates of completion does not relieve the licensee of the requirement of providing additional information regarding this continuing education as required in 645—subrule 4.11(2) if the licensee is audited.

361.2(7) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subparagraph 361.2(6)*"b"*(1) is obligated to report to the board interpreters or transliterators who are not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 through 363.

645—361.3(154E) Licensure by endorsement. An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
5. Provides:

- Examination scores which shall be sent directly from the examination service to the board; or
- A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 361.2(154E); and

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:

- The licensee's name;
- The date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—361.4(147) Licensure by reciprocal agreement. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator shall begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) A person licensed to practice as a sign language interpreter or transliterator shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a sign language interpreter or transliterator in Iowa until the license is reactivated. A licensee who practices as a sign language interpreter or transliterator in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—361.6(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.7(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.8(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

361.9(1) Submit a reactivation application on a form provided by the board.

361.9(2) Pay the reactivation fee that is due as specified in 645—subrule 5.18(9).

361.9(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—361.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 361.9(17A,147,272C) prior to practicing sign language interpreting or transliterating in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

[Filed 4/28/05, Notice 3/16/05—published 5/25/05, effective 7/1/05]
[Filed 11/29/05, Notice 9/14/05—published 12/21/05, effective 1/25/06]
[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]
[Filed 2/19/08, Notice 12/19/07—published 3/12/08, effective 4/2/08]
[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 362
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—362.1(154E,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of sign language interpreters and transliterators.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—362.2(154E,272C) Continuing education requirements.

362.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a sign language interpreter or transliterator in this state shall be required to complete a minimum of 40 hours of continuing education. A licensee who provides proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification meets continuing education requirements for that biennium renewal cycle.

362.2(2) Requirements for new licensees. A person licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of the license unless the licensee holds a temporary license and has chosen to meet the requirements for temporary licensure specified in 645—subparagraph 361.2(6)*"b"*(2). The new licensee shall complete a minimum of 40 hours of continuing education during the biennial license period for each subsequent license renewal and may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements for the second license renewal period. A licensee who provides proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) meets continuing education requirements.

362.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

362.2(4) No hours of continuing education shall be carried over into the next biennium.

362.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—362.3(154E,272C) Standards.

362.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

362.3(2) *Specific criteria.*

a. Continuing education shall be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing which meet the criteria in subrule 362.3(1) and are:

(1) Educational activities in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the Registry of Interpreters for the Deaf (RID) Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of CEUs required which is defined in 362.3(2)*"b."*

b. Each biennium, licensees shall obtain 40 hours (4 CEUs) of continuing education. The 40 hours shall include no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board shall accept proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

d. Credit is given only for actual hours attended.

645—362.4(154E,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.5(154E,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.7(154E,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

These rules are intended to implement Iowa Code section 272C.2 and Iowa Code chapter 154E.

[Filed 2/23/06, Notice 12/21/05—published 3/15/06, effective 4/19/06]
[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]
[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 363
DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—363.1(154E) Definitions.

"Board" means the board of sign language interpreters and transliterators.

"Consumer" means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term "consumer" includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—363.2(154E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—363.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

363.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

363.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other interpreters in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average interpreter acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of an interpreter in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

363.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

363.2(4) Practice outside the scope of the profession.

363.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

363.2(6) Habitual intoxication or addiction to the use of drugs.

363.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

363.2(8) Falsification of consumer records.

363.2(9) Acceptance of any fee by fraud or misrepresentation.

363.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of

duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

363.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

363.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

363.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

363.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

363.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

363.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

363.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

363.2(18) Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

363.2(19) Failure to comply with the terms of a board order issued pursuant to rule 645—4.15(272C), or failure to comply with the terms of a board order or the terms of a settlement agreement or consent order issued or executed as resolution of a contested case proceeding.

363.2(20) Failure to pay costs assessed in any disciplinary action.

363.2(21) Submission of a false report of continuing education.

363.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

363.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as an interpreter.

363.2(24) Failure to report a change of name or address within 30 days after it occurs.

363.2(25) Representing oneself as an interpreter or transliterator when one's license has been suspended or revoked, or when one's license is on inactive status.

363.2(26) Permitting another person to use the licensee's license for any purpose.

363.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

363.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct includes, but is not limited to, the following:

a. Verbally or physically abusing a consumer or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a consumer or coworker.

c. Betrayal of a professional confidence.

d. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter's or transliterator's objectivity, competence, or effectiveness.

e. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

f. Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one's professional duties.

g. Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

h. Failure to inform a consumer when federal or state laws require disclosure of confidential information.

i. Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter's objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

j. Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

k. Practicing a professional discipline without an appropriate license or after expiration of the required license.

363.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

363.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

363.2(31) Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

645—363.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical, mental, or clinical competency evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—363.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—363.5(154E) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 9/24/08, effective 10/29/08.

These rules are intended to implement Iowa Code chapters 147, 154E and 272C.

[Filed 2/23/06, Notice 12/21/05—published 3/15/06, effective 4/19/06]
[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]
[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 364
FEES
Rescinded IAB 9/24/08, effective 10/29/08

PHARMACY BOARD[657]

[Prior to 2/10/88, see Pharmacy Examiners, Board of [620], renamed Pharmacy Examiners Board[657] under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245; renamed by 2007 Iowa Acts, Senate File 74]

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UNIVERSAL PRACTICE STANDARDS
[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 6]

657—8.1(155A) Purpose and scope. The requirements of these rules apply to all Iowa-licensed pharmacists and to all pharmacies providing the services addressed in this chapter to patients in Iowa and are in addition to rules of the board relating to specific types of pharmacy licenses issued by the board.

657—8.2(155A) Pharmaceutical care. Pharmaceutical care is a comprehensive, patient-centered, outcomes-oriented pharmacy practice in which the pharmacist accepts responsibility for assisting the prescriber and the patient in optimizing the patient's drug therapy plan and works to promote health, to prevent disease, and to optimize drug therapy. Pharmaceutical care does not include the prescribing of drugs without the consent of the prescribing practitioner.

8.2(1) *Drug therapy problems.* In providing pharmaceutical care, the pharmacist shall strive to identify, resolve, and prevent drug therapy problems.

8.2(2) *Drug therapy plan.* In providing pharmaceutical care, the pharmacist shall access and evaluate patient-specific information, identify drug therapy problems, and utilize that information in a documented plan of therapy that assists the patient or the patient's caregiver in achieving optimal drug therapy. In concert with the patient, the patient's prescribing practitioner, and the patient's other health care providers, the pharmacist shall assess, monitor, and suggest modifications of the plan as appropriate.

8.2(3) *Eligibility.* Any Iowa-licensed pharmacist may practice pharmaceutical care.

657—8.3(155A) Responsibility.

8.3(1) *Pharmacy operations.* The pharmacy and the pharmacist in charge share responsibility for ensuring that all operations of the pharmacy are in compliance with federal and state laws, rules, and regulations relating to pharmacy operations and the practice of pharmacy.

8.3(2) *Practice functions.* The pharmacist is responsible for all functions performed in the practice of pharmacy. The pharmacist maintains responsibility for any and all delegated functions including functions delegated to pharmacist-interns, pharmacy technicians, and other supportive personnel.

8.3(3) *Pharmacist-documented verification.* The pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

657—8.4(155A) Pharmacist identification.

8.4(1) *Display of pharmacist license.* During any period the pharmacist is working in a pharmacy, each pharmacist shall display, in a position visible to the public, an original license to practice pharmacy. A current license renewal certificate, which may be a photocopy of an original renewal certificate, shall be displayed with the original license.

8.4(2) *Identification codes.* A permanent log of the initials or codes identifying by name each dispensing pharmacist, pharmacist-intern, and pharmacy technician shall be maintained for a minimum of two years and shall be available for inspection and copying by the board or its representative. The initials or identification code shall be unique to the individual to ensure that each pharmacist, pharmacist-intern, and pharmacy technician can be identified.

8.4(3) *Temporary or intermittent pharmacy staff.* The pharmacy shall maintain a log of all pharmacists, pharmacist-interns, and pharmacy technicians who have worked at that pharmacy and who are not regularly staffed at that pharmacy. Such log shall include the dates and shifts worked by each pharmacist, pharmacist-intern, and pharmacy technician and shall be available for inspection and copying by the board or its representative for a minimum of two years following the date of the entry.

8.4(4) *Identification badge.* A pharmacist shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacist and includes at least the pharmacist's first name.

657—8.5(155A) Environment and equipment requirements. There shall be adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy. Space and equipment in an amount and type to provide secure, environmentally controlled storage of drugs shall be available.

8.5(1) *Refrigeration.* The pharmacy shall maintain one or more refrigeration units. The temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration, and a thermometer shall be maintained in the refrigerator to verify the temperature.

8.5(2) *Sink.* The pharmacy shall have a sink with hot and cold running water located within the pharmacy department and available to all pharmacy personnel; the sink shall be maintained in a sanitary condition.

8.5(3) *Secure barrier.* The pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the barrier shall be submitted to the board for approval prior to the start of construction. The board may also require on-site inspection of the facility or pharmacy department prior to the pharmacy's opening or relocation. The pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A).

8.5(4) *Orderly and clean.* The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner.

8.5(5) *Light and ventilation.* The pharmacy shall be properly lighted and ventilated.

8.5(6) *Temperature and humidity.* The temperature and humidity of the pharmacy shall be maintained within a range compatible with the proper storage of drugs.

8.5(7) *Other equipment.* The pharmacist in charge shall ensure the availability of any other equipment necessary for the particular practice of pharmacy and to meet the needs of the patients served by the pharmacy.

8.5(8) *Bulk counting machines.* Unless bar-code scanning is required and utilized to verify the identity of each stock container of drugs utilized to restock a counting machine cell or bin, a pharmacist shall verify the accuracy of the drugs to be restocked prior to filling the counting machine cell or bin. A record identifying the individual who verified the drugs to be restocked, the individual who restocked the counting machine cell or bin, and the date shall be maintained. The pharmacy shall have a method to calibrate and verify the accuracy of the counting device and shall, at least quarterly, verify the accuracy of the device and maintain a dated record identifying the individual who performed the quarterly verification.

657—8.6(155A) Health of personnel. Only personnel authorized by the responsible pharmacist shall be in the immediate vicinity of the drug dispensing, preparation, compounding, or storage areas. Any person shown, either by medical examination or pharmacist determination, to have an apparent illness or open lesions that may adversely affect the quality or safety of a drug product or another individual shall be excluded from direct contact with components, bulk drug substances, drug product containers, closures, in-process materials, drug products, and patients until the condition is corrected or determined by competent medical personnel not to jeopardize the quality or safety of drug products or patients. All personnel who normally assist the pharmacist shall be instructed to report to the pharmacist any health conditions that may have an adverse effect on drug products or may pose a health or safety risk to others.

657—8.7(155A) Procurement, storage, and recall of drugs and devices.

8.7(1) *Source.* Procurement of prescription drugs and devices shall be from a drug wholesaler licensed by the board to distribute to Iowa pharmacies or, on a limited basis, from another licensed pharmacy or licensed practitioner located in the United States.

8.7(2) *Sufficient stock.* A pharmacy shall maintain sufficient stock of drugs and devices to fulfill the foreseeable needs of the patients served by the pharmacy.

8.7(3) *Manner of storage.* Drugs and devices shall be stored in a manner to protect their identity and integrity.

8.7(4) *Storage temperatures.* All drugs and devices shall be stored at the proper temperature, as defined by the following terms:

a. *"Controlled room temperature"* means temperature maintained thermostatically between 15 degrees and 30 degrees Celsius (59 degrees and 86 degrees Fahrenheit);

b. *"Cool"* means temperature between 8 degrees and 15 degrees Celsius (46 degrees and 59 degrees Fahrenheit). Drugs and devices may be stored in a refrigerator unless otherwise specified on the labeling;

c. *"Refrigerate"* means temperature maintained thermostatically between 2 degrees and 8 degrees Celsius (36 degrees and 46 degrees Fahrenheit); and

d. *"Freeze"* means temperature maintained thermostatically between -20 degrees and -10 degrees Celsius (-4 degrees and 14 degrees Fahrenheit).

8.7(5) *Product recall.* There shall be a system for removing from use, including unit dose, any drugs and devices subjected to a product recall.

657—8.8(124,155A) Out-of-date drugs or devices. Any drug or device bearing an expiration date shall not be dispensed for use beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined until such drugs or devices are properly disposed of.

657—8.9(124,155A) Records. Every inventory or other record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record unless a longer retention period is specified for the particular record or inventory. The following records shall be maintained for at least two years.

8.9(1) *Drug supplier invoices.* All pharmacies shall maintain supplier invoices of prescription drugs and controlled substances upon which the actual date of receipt of the controlled substances by the pharmacist or other responsible individual is clearly recorded.

8.9(2) *Drug supplier credits.* All pharmacies shall maintain supplier credit memos for controlled substances and prescription drugs.

657—8.10 Reserved.

657—8.11(147,155A) Unethical conduct or practice. The provisions of this rule apply to licensed pharmacies, licensed pharmacists and registered pharmacist-interns.

8.11(1) *Misrepresentative deeds.* A pharmacist shall not make any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

8.11(2) *Undue influence.*

a. A pharmacist shall not accept professional employment or share or receive compensation in any form arising out of, or incidental to, the pharmacist's professional activities from a prescriber of prescription drugs or any other person or corporation in which one or more such prescribers have a proprietary or beneficial interest sufficient to permit them to directly or indirectly exercise supervision or control over the pharmacist in the pharmacist's professional responsibilities and duties or over the pharmacy wherein the pharmacist practices.

b. The prohibition in paragraph *"a"* shall not apply until April 23, 2006, to a pharmacist who is working at a prescriber-owned pharmacy location licensed as of April 23, 1981.

c. A prescriber may employ a pharmacist to provide nondispensing, drug information, or other cognitive services.

8.11(3) *Lease agreements.* A pharmacist shall not lease space for a pharmacy under any of the following conditions:

a. From a prescriber of prescription drugs or a group, corporation, association, or organization of such prescribers on a percentage of income basis;

b. From a group, corporation, association, or organization in which prescribers have majority control or have directly or indirectly a majority beneficial or proprietary interest on a percentage of income basis; or

c. If the rent is not reasonable according to commonly accepted standards of the community in which the pharmacy will be located.

8.11(4) *Nonconformance with law.* A pharmacist shall not knowingly serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.

8.11(5) *Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms.* A pharmacist or pharmacy shall not enter into any agreement which negates a patient's freedom of choice of pharmacy services. A pharmacist or pharmacy shall not participate in prohibited agreements with any person in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy. "Person" includes an individual, corporation, partnership, association, firm, or other entity. "Prohibited agreements" includes an agreement or arrangement that provides premiums, "kickbacks," fee-splitting, or special charges as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" includes, but is not limited to, the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of a facility or practitioner at no charge or billed below reasonable market rate. A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification, except that a hospital may make available to hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use during practice at or in the hospital generic prescription blanks or forms bearing the name, address, or telephone number of the hospital pharmacy.

8.11(6) *Discrimination.* It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

8.11(7) *Claims of professional superiority.* A pharmacist shall not make a claim, assertion, or inference of professional superiority in the practice of pharmacy which cannot be substantiated, or claim an unusual, unsubstantiated capacity to supply a drug or professional service to the community.

8.11(8) *Unprofessional conduct or behavior.* A pharmacist shall not exhibit unprofessional behavior in connection with the practice of pharmacy or refuse to provide reasonable information or answer reasonable questions for the benefit of the patient. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

657—8.12(126,147) Advertising. Prescription drug price and nonprice information may be provided to the public by a pharmacy so long as the information is not false or misleading and is not in violation of any federal or state laws applicable to the advertisement of such articles generally and if all of the following conditions are met:

1. All charges for services to the consumer must be stated.
2. The effective dates for the prices listed shall be stated.
3. No reference shall be made to controlled substances listed in Schedules II through V of the latest revision of the Iowa uniform controlled substances Act and the rules of the Iowa board of pharmacy.

657—8.13(135C,155A) Personnel histories. Pursuant to the requirements of Iowa Code section 135C.33, the provisions of this rule shall apply to any pharmacy employing any person to provide patient care services in a patient's home. For the purposes of this rule, "employed by the pharmacy" shall include any individual who is paid to provide treatment or services to any patient in the patient's home, whether the individual is paid by the pharmacy or by any other entity such as a corporation, a temporary staffing agency, or an independent contractor. Specifically excluded from the requirements of this rule are individuals such as delivery persons or couriers who do not enter the patient's home for the purpose of instructing the patient or the patient's caregiver in the use or maintenance of the equipment, device, or drug being delivered, or who do not enter the patient's home for the purpose of setting up or servicing the equipment, device, or drug used to treat the patient in the patient's home.

8.13(1) *Applicant acknowledgment.* The pharmacy shall ask the following question of each person seeking employment in a position that will provide in-home services: "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?" The applicant shall also be informed that a criminal history and dependent adult abuse record check will be conducted. The applicant shall indicate, by signed acknowledgment, that the applicant has been informed that such record checks will be conducted.

8.13(2) *Criminal history check.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall submit to the department of public safety a form specified by the department of public safety and receive the results of a criminal history check.

8.13(3) *Abuse history checks.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall submit to the department of human services a form specified by the department of human services and receive the results of a dependent adult abuse record check. The pharmacy may submit to the department of human services a form specified by the department of human services to request a child abuse history check.

a. A person who has a criminal record, founded dependent adult abuse report, or founded child abuse report shall not be employed by a pharmacy to provide in-home services unless the department of human services has evaluated the crime or founded abuse report, has concluded that the crime or founded abuse does not merit prohibition from such employment, and has notified the pharmacy that the person may be employed to provide in-home services.

b. The pharmacy shall keep copies of all record checks and evaluations for a minimum of two years following receipt of the record or for a minimum of two years after the individual is no longer employed by the pharmacy, whichever is greater.

657—8.14(155A) Training and utilization of pharmacy technicians. All Iowa-licensed pharmacies utilizing pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy at that licensed location. Pharmacy policies shall specify the frequency of review. Technician training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of technician training shall be available for inspection by the board or an agent of the board.

657—8.15(155A) Delivery of prescription drugs and devices. Prescription drug orders, prescription devices, and completed prescription drug containers may be delivered, in compliance with all laws, rules, and regulations relating to the practice of pharmacy, to patients at any place of business licensed as a pharmacy.

8.15(1) *Alternative methods.* A licensed pharmacy may, by means of its employee or by use of a common carrier, pick up or deliver prescriptions to the patient or the patient's caregiver as follows:

a. At the office or home of the prescriber.

b. At the residence of the patient or caregiver.

c. At the hospital or medical care facility in which a patient is confined.

d. At an outpatient medical care facility where the patient receives treatment only pursuant to the following requirements:

(1) The pharmacy shall obtain and maintain the written authorization of the patient or patient's caregiver for receipt or delivery at the outpatient medical care facility;

(2) The prescription shall be delivered directly to or received directly from the patient, the caregiver, or an authorized agent identified in the written authorization;

(3) A prescription authorized by a prescriber not treating the patient at the outpatient medical care facility may be transmitted to the pharmacy by the authorized agent via facsimile provided the written prescription is delivered to the pharmacy prior to delivery of the filled prescription to the patient; and

(4) The outpatient medical care facility shall store the patient's filled prescriptions in a secure area pending delivery to the patient.

e. At the patient's or caregiver's place of employment only pursuant to the following requirements:

(1) The pharmacy shall obtain and maintain the written authorization of the patient or patient's caregiver for receipt or delivery at the place of employment;

(2) The prescription shall be delivered directly to or received directly from the patient, the caregiver, or an authorized agent identified in the written authorization; and

(3) The pharmacy shall ensure the security of confidential information as defined in subrule 8.16(1).

8.15(2) *Policies and procedures required.* Every pharmacy shipping or otherwise delivering prescription drugs or devices to Iowa patients shall develop and implement policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements as defined by subrule 8.7(4).

657—8.16(124,155A) Confidential information.

8.16(1) *Definition.* "Confidential information" means information accessed or maintained by the pharmacy in the patient's records which contains personally identifiable information that could be used to identify the patient. This includes but is not limited to patient name, address, telephone number, and social security number; prescriber name and address; and prescription and drug or device information such as therapeutic effect, diagnosis, allergies, disease state, pharmaceutical services rendered, medical information, and drug interactions, regardless of whether such information is communicated to or from the patient, is in the form of paper, is preserved on microfilm, or is stored on electronic media.

8.16(2) *Release of confidential information.* Confidential information in the patient record may be released only as follows:

a. Pursuant to the express written authorization of the patient or the order or direction of a court.

b. To the patient or the patient's authorized representative.

c. To the prescriber or other licensed practitioner then caring for the patient.

d. To another licensed pharmacist when the best interests of the patient require such release.

e. To the board or its representative or to such other persons or governmental agencies duly authorized by law to receive such information.

A pharmacist shall utilize the resources available to determine, in the professional judgment of the pharmacist, that any persons requesting confidential patient information pursuant to this rule are entitled to receive that information.

8.16(3) *Exceptions.* Nothing in this rule shall prohibit pharmacists from releasing confidential patient information as follows:

a. Transferring a prescription to another pharmacy upon the request of the patient or the patient's authorized representative.

b. Providing a copy of a nonrefillable prescription to the person for whom the prescription was issued which is clearly marked as a copy and not to be filled.

c. Providing drug therapy information to physicians or other authorized prescribers for their patients.

d. Disclosing information necessary for the processing of claims for payment of health care operations or services.

8.16(4) *System security and safeguards.* To maintain the integrity and confidentiality of patient records and prescription drug orders, any system or computer utilized shall have adequate security

including system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records and prescription drug orders.

8.16(5) *Record disposal.* Disposal of any materials containing or including patient-specific or confidential information shall be conducted in a manner to preserve patient confidentiality.

657—8.17 and **8.18** Reserved.

657—8.19(124,126,155A) Manner of issuance of a prescription drug or medication order. A prescription drug order or medication order may be transmitted from a prescriber to a pharmacy in written form, orally including telephone voice communication, or by electronic transmission in accordance with applicable federal and state laws and rules. Any prescription drug order or medication order provided to a patient in written or printed form shall include the original, handwritten signature of the prescriber except as provided in rule 657—21.7(124,155A).

8.19(1) *Verification.* The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any prescription drug order or medication order consistent with federal and state laws and rules. In exercising professional judgment, the prescribing practitioner and the pharmacist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries.

8.19(2) *Transmitting agent.* The prescribing practitioner may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally or by electronic transmission provided that the name of the transmitting agent is included in the order.

8.19(3) *Receiving agent.* Regardless of the means of transmission to a pharmacy, only a pharmacist, a pharmacist-intern, or a pharmacy technician shall be authorized to receive a prescription drug or medication order from a practitioner or the practitioner's agent.

8.19(4) *Legitimate purpose.* The pharmacist shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship.

8.19(5) *Refills.* A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued. A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription drug order.

657—8.20(155A) Valid prescriber/patient relationship. Prescription drug orders and medication orders shall be valid as long as a prescriber/patient relationship exists. Once the prescriber/patient relationship is broken and the prescriber is no longer available to treat the patient or oversee the patient's use of a prescription drug, the order loses its validity and the pharmacist, on becoming aware of the situation, shall cancel the order and any remaining refills. The pharmacist shall, however, exercise prudent judgment based upon individual circumstances to ensure that the patient is able to obtain a sufficient amount of the prescribed drug to continue treatment until the patient can reasonably obtain the service of another prescriber and a new order can be issued.

657—8.21(155A) Prospective drug use review. For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

1. Overutilization or underutilization;
2. Therapeutic duplication;
3. Drug-disease contraindications;
4. Drug-drug interactions;

5. Incorrect drug dosage or duration of drug treatment;
6. Drug-allergy interactions;
7. Clinical abuse/misuse;
8. Drug-prescriber contraindications.

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. The review and assessment of patient records shall not be delegated to staff assistants but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

657—8.22 to **8.25** Reserved.

657—8.26(155A) Continuous quality improvement program. Each pharmacy licensed to provide pharmaceutical services to patients in Iowa shall implement or participate in a continuous quality improvement program or CQI program. The CQI program is intended to be an ongoing, systematic program of standards and procedures to detect, identify, evaluate, and prevent medication errors, thereby improving medication therapy and the quality of patient care. A pharmacy that participates as an active member of a hospital or corporate CQI program that meets the objectives of this rule shall not be required to implement a new program pursuant to this rule.

8.26(1) *Reportable program events.* For purposes of this rule, a reportable program event or program event means a preventable medication error resulting in the incorrect dispensing of a prescribed drug received by or administered to the patient and includes but is not necessarily limited to:

a. An incorrect drug;
b. An incorrect drug strength;
c. An incorrect dosage form;
d. A drug received by the wrong patient;
e. Inadequate or incorrect packaging, labeling, or directions; or
f. Any incident related to a prescription dispensed to a patient that results in or has the potential to result in serious harm to the patient.

8.26(2) *Responsibility.* The pharmacist in charge is responsible for ensuring that the pharmacy utilizes a CQI program consistent with the requirements of this rule. The pharmacist in charge may delegate program administration and monitoring, but the pharmacist in charge maintains ultimate responsibility for the validity and consistency of program activities.

8.26(3) *Policies and procedures.* Each pharmacy shall develop, implement, and adhere to written policies and procedures for the operation and management of the pharmacy's CQI program. A copy of the pharmacy's CQI program description and policies and procedures shall be maintained and readily available to all pharmacy personnel. The policies and procedures shall address, at a minimum, a planned process to:

a. Train all pharmacy personnel in relevant phases of the CQI program;
b. Identify and document reportable program events;
c. Minimize the impact of reportable program events on patients;
d. Analyze data collected to assess the causes and any contributing factors relating to reportable program events;
e. Use the findings to formulate an appropriate response and to develop pharmacy systems and workflow processes designed to prevent and reduce reportable program events; and
f. Periodically, but at least annually, meet with appropriate pharmacy personnel to review findings and inform personnel of changes that have been made to pharmacy policies, procedures, systems, or processes as a result of CQI program findings.

8.26(4) *Event discovery and notification.* As provided by the procedures of the CQI program, the pharmacist in charge or appropriate designee shall be informed of and review all reported and documented program events. All pharmacy personnel shall be trained to immediately inform the pharmacist on duty of any discovered or suspected program event. When the pharmacist on duty determines that a reportable program event has occurred, the pharmacist shall ensure that all reasonably

necessary steps are taken to remedy any problems or potential problems for the patient and that those steps are documented. Necessary steps include, but are not limited to, the following:

a. Notifying the patient or the patient's caregiver and the prescriber or other members of the patient's health care team as warranted;

b. Identifying and communicating directions or processes for correcting the error; and

c. Communicating instructions for minimizing any negative impact on the patient.

8.26(5) *CQI program records.* All CQI program records shall be maintained on site at the pharmacy or shall be accessible at the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the record. When a reportable program event occurs or is suspected to have occurred, the program event shall be documented in a written or electronic storage record created solely for that purpose. Records of program events shall be maintained in an orderly manner and shall be filed chronologically by date of discovery.

a. The program event shall initially be documented as soon as practicable by the staff member who discovers the event or is informed of the event.

b. Program event documentation shall include a description of the event that provides sufficient information to permit categorization and analysis of the event and shall include:

(1) The date and time the program event was discovered and the name of the staff person who discovered the event; and

(2) The names of the individuals recording and reviewing or analyzing the program event information.

8.26(6) *Program event analysis and response.* The pharmacist in charge or designee shall review each reportable program event and determine if follow-up is necessary. When appropriate, information and data collected and documented shall be analyzed, individually and collectively, to assess the cause and any factors contributing to the program event. The analysis may include, but is not limited to, the following:

a. A consideration of the effects on the quality of the pharmacy system related to workflow processes, technology utilization and support, personnel training, and both professional and technical staffing levels;

b. Any recommendations for remedial changes to pharmacy policies, procedures, systems, or processes; and

c. The development of a set of indicators that a pharmacy will utilize to measure its program standards over a designated period of time.

657—8.27 to **8.29** Reserved.

657—8.30(126,155A) Sterile products. Rescinded IAB 6/6/07, effective 7/11/07.

657—8.31 Reserved.

657—8.32(124,155A) Individuals qualified to administer. The board designates the following as qualified individuals to whom a practitioner may delegate the administration of prescription drugs. Any person specifically authorized under pertinent sections of the Iowa Code to administer prescription drugs shall construe nothing in this rule to limit that authority.

1. Persons who have successfully completed a medication administration course.
2. Licensed pharmacists.

657—8.33(147,155A) Supervision of pharmacists who administer adult immunizations. A physician may prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by an authorized pharmacist if the physician meets these requirements for supervising the pharmacist.

8.33(1) *Definitions.*

a. *"Authorized pharmacist"* means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an organized course of study in a college or school of pharmacy

or an Accreditation Council for Pharmacy Education (ACPE)-approved continuing pharmaceutical education program on vaccine administration that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers;

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current Centers for Disease Control and Prevention guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;
2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment and counseling;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. *"Vaccine"* means a specially prepared antigen which, upon administration to a person, will result in immunity and, specifically for the purposes of this rule, shall mean influenza and pneumococcal vaccines.

c. *"Written protocol"* means a physician's order for one or more patients that contains, at a minimum, the following:

(1) A statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of adult immunizations for influenza and pneumococcus;

(2) A statement identifying the individual authorized pharmacist;

(3) A statement that forbids an authorized pharmacist from delegating the administration of adult immunizations to anyone other than another authorized pharmacist, a registered pharmacist-intern under the direct personal supervision of the authorized pharmacist, or a registered nurse;

(4) A statement identifying the vaccines that may be administered by an authorized pharmacist, the dosages, and the route of administration;

(5) A statement identifying the activities an authorized pharmacist shall follow in the course of administering adult immunizations, including:

1. Procedures for determining if a patient is eligible to receive the vaccine;
2. Procedures for determining the appropriate scheduling and frequency of drug administration in accordance with applicable guidelines;
3. Procedures for record keeping and long-term record storage including batch or identification numbers;
4. Procedures to follow in case of life-threatening reactions; and
5. Procedures for the pharmacist and patient to follow in case of reactions following administration.

(6) A statement that describes how the authorized pharmacist shall report the administration of adult immunizations, within 30 days, to the physician issuing the written protocols and to the patient's primary care physician if one has been designated by the patient. In case of serious complications, the authorized pharmacist shall notify the physicians within 24 hours and submit a VAERS report to the bureau of immunizations, Iowa department of public health. (VAERS is the Vaccine Advisory Event Reporting System.) A serious complication is one that requires further medical or therapeutic intervention to effectively protect the patient from further risk, morbidity, or mortality.

8.33(2) *Supervision.* A physician who prescribes adult immunizations to an authorized pharmacist for administration shall adequately supervise that pharmacist. Physician supervision shall be considered adequate if the delegating physician:

a. Ensures that the authorized pharmacist is prepared as described in subrule 8.33(1), paragraph *"a"*;

b. Provides a written protocol that is updated at least annually;

c. Is available through direct telecommunication for consultation, assistance, and direction, or provides physician backup to provide these services when the physician supervisor is not available;

d. Is an Iowa-licensed physician who has a working relationship with an authorized pharmacist within the physician's local provider service area.

8.33(3) *Administration of other adult immunizations by pharmacists.* A physician may prescribe, for an individual patient by prescription or medication order, other adult immunizations to be administered by an authorized pharmacist.

This rule is intended to implement Iowa Code sections 147.76, 155A.3, 155A.4, and 272C.3.

657—8.34(155A) Collaborative drug therapy management. An authorized pharmacist may only perform collaborative drug therapy management pursuant to protocol with a physician pursuant to the requirements of this rule. The physician retains the ultimate responsibility for the care of the patient. The pharmacist is responsible for all aspects of drug therapy management performed by the pharmacist.

8.34(1) *Definitions.*

"Authorized pharmacist" means an Iowa-licensed pharmacist whose license is in good standing and who meets the drug therapy management criteria defined in this rule.

"Board" means the board of pharmacy.

"Collaborative drug therapy management" means participation by an authorized pharmacist and a physician in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

"Collaborative practice" means that a physician may delegate aspects of drug therapy management for the physician's patients to an authorized pharmacist through a community practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and hospital clinic patients through a hospital practice protocol.

"Community practice protocol" means a written, executed agreement entered into voluntarily between an authorized pharmacist and a physician establishing drug therapy management for one or more of the pharmacist's and physician's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 8.34(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home, group home, assisted living facility, correctional facility, hospice, or long-term care facility.

"Drug therapy management criteria" means one or more of the following:

1. Graduation from a recognized school or college of pharmacy with a doctor of pharmacy (Pharm.D.) degree;
2. Certification by the Board of Pharmaceutical Specialties (BPS);
3. Certification by the Commission for Certification in Geriatric Pharmacy (CCGP);
4. Successful completion of a National Institute for Standards in Pharmacist Credentialing (NISPC) disease state management examination and credentialing by the NISPC;
5. Successful completion of a pharmacy residency program accredited by the American Society of Health-System Pharmacists (ASHP); or
6. Approval by the board of pharmacy.

"Hospital clinic" means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between hospital pharmacists and physicians within a hospital and the hospital's clinics as developed and determined by the hospital's P&T committee. Such a protocol may

apply to all pharmacists and physicians at a hospital or the hospital's clinics or only to those pharmacists and physicians who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 8.34(3).

"IBM" means the Iowa board of medicine.

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and administration in the hospital, and manages the hospital drug formulary system.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The physician may delegate only drug therapies that are in areas common to the physician's practice.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

8.34(2) *Community practice protocol.*

a. An authorized pharmacist shall engage in collaborative drug therapy management with a physician only under a written protocol that has been identified by topic and has been submitted to the board or a committee authorized by the board. A protocol executed after July 1, 2008, will no longer be required to be submitted to the board; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBM.

b. The community practice protocol shall include:

(1) The name, signature, date, and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal authorized pharmacist shall be designated in the protocol.

(2) The name, signature, date, and contact information for each physician who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The physician who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal physician.

(3) The name and contact information of the principal physician and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.

(4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the patient's physician. The protocol shall not authorize the pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the patient's physician for follow-up.

4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

(5) Procedures for securing the patient's written consent. If the patient's consent is not secured by the physician, the authorized pharmacist shall secure such and notify the patient's physician within 24 hours.

(6) Circumstances that shall cause the authorized pharmacist to initiate communication with the physician including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.

(7) A detailed statement identifying the specific drugs, laboratory tests, and physical findings upon which the authorized pharmacist shall base drug therapy management decisions.

(8) A provision for the collaborative drug therapy management protocol to be reviewed, updated, and reexecuted or discontinued at least every two years.

(9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the physician.

(10) A description of the types of reports the authorized pharmacist is to provide to the physician and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame within which a pharmacist shall report any adverse reaction to the physician.

(11) A statement of the medication categories and the type of initiation and modification of drug therapy that the physician authorizes the pharmacist to perform.

(12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.

(13) Procedures for record keeping, record sharing, and long-term record storage.

(14) Procedures to follow in emergency situations.

(15) A statement that prohibits the authorized pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.

(16) A statement that prohibits a physician from delegating collaborative drug therapy management to any unlicensed or licensed person other than another physician or an authorized pharmacist.

(17) A description of the mechanism for the pharmacist and the physician to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.

c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least one authorized pharmacist and at least one physician.

d. The collaborative drug therapy protocol must be filed with the board, kept on file in the pharmacy, and be made available upon request of the board or the IBM. After July 1, 2008, protocols shall no longer be filed with the board but shall be maintained in the pharmacy and made available to the board and the IBM upon request.

e. A physician may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the physician notifies, in writing, the pharmacist and the board. Notification shall include the name of the authorized pharmacist, the desired change, and the proposed effective date of the change. After July 1, 2008, the physician shall no longer be required to notify the board of changes in a protocol but the written notification shall be maintained in the pharmacy and made available upon request of the board or the IBM.

f. The physician or pharmacist who initiates a protocol with a patient is responsible for securing a patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours. The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient shall be communicated to the other party at the time of securing the patient's consent. The patient's physician shall maintain the patient consent in the patient's medical record.

8.34(3) *Hospital practice protocol.*

a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by the hospital's pharmacists.

b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.

c. The hospital practice protocol shall include:

(1) The names or groups of pharmacists and physicians who are authorized by the P&T committee to participate in collaborative drug therapy management.

(2) A plan for development, training, administration, and quality assurance of the protocol.

(3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the physician. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the physician for follow-up.

(4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's physician including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.

(5) A statement of the medication categories and the type of initiation and modification of drug therapy that the P&T committee authorizes the hospital pharmacist to perform.

(6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.

(7) A description of the mechanism for the hospital pharmacist and the patient's physician to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

657—8.35(155A) Pharmacy license. A pharmacy license issued by the board is required for all sites where prescription drugs are offered for sale or dispensed under the supervision of a pharmacist. A pharmacy license issued by the board is also required for all sites where drug information or other cognitive pharmacy services, including but not limited to drug use review and patient counseling, are provided by a pharmacist. The board may issue any of the following types of pharmacy licenses: a general pharmacy license, a hospital pharmacy license, a special or limited use pharmacy license, or a nonresident pharmacy license. Nonresident pharmacy license applicants shall comply with board rules regarding nonresident pharmacy practice except when specific exemptions have been granted. Applicants for general or hospital pharmacy practice shall comply with board rules regarding general or hospital pharmacy practice except when specific exemptions have been granted. Any pharmacy located within Iowa that dispenses controlled substances must also register pursuant to 657—Chapter 10.

8.35(1) *Exemptions.* Applicants who are granted exemptions shall be issued a "general pharmacy license with exemption," a "hospital pharmacy license with exemption," a "nonresident pharmacy license with exemption," or a "limited use pharmacy license with exemption" and shall comply with the provisions set forth by that exemption. A written petition for exemption from certain licensure requirements shall be submitted pursuant to the procedures and requirements of 657—Chapter 34 and will be determined on a case-by-case basis.

8.35(2) *Limited use pharmacy license.* Limited use pharmacy license may be issued for nuclear pharmacy practice, correctional facility pharmacy practice, and veterinary pharmacy practice. Applications for limited use pharmacy license for these and other limited use practice settings shall be determined on a case-by-case basis.

8.35(3) *Application form.* Application for licensure and license renewal shall be on forms provided by the board. The application for a pharmacy license shall require an indication of the pharmacy ownership classification. If the owner is a sole proprietorship (100 percent ownership), the name and address of the owner shall be indicated. If the owner is a partnership or limited partnership, the names and addresses of all partners shall be listed or attached. If the owner is a corporation, the names and addresses of the officers and directors of the corporation shall be listed or attached. Any other pharmacy

ownership classification shall be further identified and explained on the application. The application form shall require the name, signature, and license number of the pharmacist in charge. The names and license numbers of all pharmacists engaged in practice in the pharmacy, the names and registration numbers of all pharmacy technicians working in the pharmacy, and the average number of hours worked by each pharmacist and each pharmacy technician shall be listed or attached. Additional information may be required of specific types of pharmacy license applicants. The application shall be signed by the pharmacy owner or the owner's, partnership's, or corporation's authorized representative.

8.35(4) *License expiration and renewal.* General pharmacy licenses, hospital pharmacy licenses, special or limited use pharmacy licenses, and nonresident pharmacy licenses shall be renewed before January 1 of each year. The fee for a new or renewal license shall be $150.

a. *Late payment penalty.* Failure to renew the pharmacy license before January 1 following expiration shall require payment of the renewal fee and a penalty fee of $150. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of $250. Failure to renew the license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of $350. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of $450 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a pharmacy license exceed $600.

b. *Delinquent license.* If a license is not renewed before its expiration date, the license is delinquent and the licensee may not operate or provide pharmacy services to patients in the state of Iowa until the licensee renews the delinquent license. A pharmacy that continues to operate in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

8.35(5) *Inspection of new pharmacy location.* If the new pharmacy location within Iowa was not a licensed pharmacy immediately prior to the proposed opening of the new pharmacy, the pharmacy location shall require an on-site inspection by a pharmacy board inspector prior to the issuance of the pharmacy license. The purpose of the inspection is to determine compliance with requirements pertaining to space, library, equipment, security, temperature control, and drug storage safeguards. Inspection may be scheduled anytime following submission of necessary license and registration applications and prior to opening for business as a pharmacy. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to satisfactory completion of the opening inspection.

8.35(6) *Pharmacy license changes.* When a pharmacy changes its name, location, ownership, or pharmacist in charge, a new pharmacy license application with a license fee as provided in subrule 8.35(4) shall be submitted to the board office. Upon receipt of the fee and properly completed application, the board will issue a new pharmacy license certificate. The old license certificate shall be returned to the board office within ten days of the change of name, location, ownership, or pharmacist in charge.

a. A change of pharmacy location in Iowa shall require an on-site inspection of the new location as provided in subrule 8.35(5) if the new location was not a licensed pharmacy immediately prior to the relocation.

b. A change of ownership of a currently licensed Iowa pharmacy, or a change of pharmacy location to another existing Iowa pharmacy location, shall not require on-site inspection pursuant to subrule 8.35(5). A new pharmacy license is required as provided above. In those cases in which the pharmacy is owned by a corporation, the sale or transfer of all stock of the corporation does not constitute a change of ownership provided the corporation that owns the pharmacy continues to exist following the stock sale or transfer.

c. A change of pharmacist in charge shall require completion and submission of the application and fee for new pharmacy license . If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge, signed by the pharmacy owner or corporate officer and the temporary pharmacist in charge, shall be submitted to the board within 10 days following the vacancy. Within 90 days following the vacancy, a permanent pharmacist in charge shall be identified, and an application

for pharmacy license, including the license fee as provided in subrule 8.35(4), shall be submitted to the board office.

8.35(7) *Pharmacy closing.* At least two weeks prior to the closing of a pharmacy, a written notice shall be sent to the board and to the Drug Enforcement Administration (DEA) notifying those agencies of the intent to discontinue business or sell the pharmacy including the anticipated date of sale or closing.

a. Prior notification shall include the name, address, DEA registration number, Iowa pharmacy license number, and Iowa controlled substances Act (CSA) registration number of the closing pharmacy and of the pharmacy to which prescription drugs will be transferred. Notification shall also include the name, address, DEA registration number, Iowa pharmacy license number, and CSA registration number of the location at which prescription files, patient profiles, and controlled substance receipt and disbursement records will be maintained.

b. Pharmacy patients with active prescriptions on file with a pharmacy that intends to close permanently shall be notified by that pharmacy, via direct mail or public notice at least two weeks prior to the closure of the pharmacy, that each patient has the right to transfer the patient's active prescriptions to a pharmacy of the patient's choosing. This paragraph shall not apply in the case of an emergency or unforeseeable closure including, but not limited to, emergency board action, foreclosure, fire, or natural disaster.

c. A complete inventory of all prescription drugs being transferred shall be taken as of the close of business. The inventory shall serve as the ending inventory for the closing pharmacy as well as a record of additional or starting inventory for the pharmacy to which the drugs are transferred. A copy of the inventory shall be included in the records of each licensee.

(1) DEA Form 222 is required for transfer of Schedule II controlled substances.

(2) The inventory of controlled substances shall be completed pursuant to the requirements in 657—10.35(124,155A).

(3) The inventory of all noncontrolled prescription drugs may be estimated.

(4) The inventory shall include the name, strength, dosage form, and quantity of all prescription drugs transferred.

(5) Controlled substances requiring destruction or other disposal shall be transferred in the same manner as all other drugs. The new owner is responsible for the disposal of these substances as provided in rule 657—10.18(124).

d. The license certificate and CSA certificate of the closing or selling pharmacy shall be returned to the board office within ten days of closing or sale. The DEA registration certificate and all unused DEA Forms 222 shall be returned to the DEA.

e. A location that no longer houses a licensed pharmacy shall not display any sign, placard, or other notification, visible to the public, which identifies the location as a pharmacy. A sign or other public notification that cannot feasibly be removed shall be covered so as to conceal the identification as a pharmacy.

8.35(8) *Failure to complete licensure.* An application for a pharmacy license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process within six months of receipt by the board of the required applications. The licensure process shall be complete upon the pharmacy's opening for business at the licensed location following an inspection rated as satisfactory by an agent of the board if such an inspection is required pursuant to this rule. When an applicant fails to timely complete the licensure process, fees submitted with applications will not be transferred or refunded.

These rules are intended to implement Iowa Code sections 124.101, 124.301, 124.306, 124.308, 126.10, 126.11, 126.16, 135C.33, 147.7, 147.55, 147.72, 147.74, 147.76, 155A.2 through 155A.4, 155A.6, 155A.10, 155A.12 through 155A.15, 155A.19, 155A.20, 155A.27 through 155A.29, 155A.32, and 155A.33.

[Filed 4/11/68; amended 11/14/73]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]
[Filed emergency 12/9/77—published 12/28/77, effective 12/9/77]

[Filed 10/20/78, Notice 8/9/78—published 11/15/78, effective 1/9/79]
[Filed 12/2/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed 12/21/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed 1/8/79, Notice 11/29/78—published 1/24/79, effective 2/28/79]
[Filed 8/28/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]
[Filed 12/7/79, Notice 10/3/79—published 12/26/79, effective 1/30/80]
[Filed 2/22/80, Notice 10/3/79—published 3/19/80, effective 4/23/80]
[Filed emergency 4/22/80—published 5/14/80, effective 4/22/80]
[Filed 12/1/80, Notice 10/15/80—published 12/24/80, effective 1/28/81]
[Filed 2/12/81, Notice 12/24/80—published 3/4/81, effective 4/8/81]
[Filed 5/27/81, Notice 4/1/81—published 6/24/81, effective 7/29/81]
[Filed emergency 7/28/81—published 8/19/81, effective 8/1/81]
[Filed emergency 9/14/81—published 9/30/81, effective 9/30/81]
[Filed 7/28/82, Notice 3/17/82—published 8/18/82, effective 9/22/82]
[Filed emergency 8/26/82—published 9/15/82, effective 9/22/82]
[Filed 9/10/82, Notice 6/9/82—published 9/29/82, effective 11/8/82]
[Filed emergency 10/6/82—published 10/27/82, effective 10/27/82]◊
[Filed emergency 12/2/82—published 12/22/82, effective 12/22/82]
[Filed 11/18/83, Notice 8/3/83—published 12/7/83, effective 1/11/84]
[Filed 1/13/84, Notice 11/9/83—published 2/1/84, effective 3/7/84]
[Filed 6/22/84, Notice 4/11/84—published 7/18/84, effective 8/22/84]
[Filed emergency 7/13/84—published 8/1/84, effective 7/13/84]
[Filed 9/21/84, Notice 7/18/84—published 10/10/84, effective 11/14/84]
[Filed 2/22/85, Notice 11/21/84—published 3/13/85, effective 4/18/85]
[Filed emergency 6/18/85—published 7/3/85, effective 7/1/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]◊
[Filed 11/27/85, Notice 8/28/85—published 12/18/85, effective 1/22/86]
[Filed 9/19/86, Notice 6/4/86—published 10/8/86, effective 11/12/86]
[Filed 1/28/87, Notice 11/19/86—published 2/25/87, effective 4/1/87]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed 1/21/88, Notice 11/4/87—published 2/10/88, effective 3/16/88]
[Filed 3/29/88, Notice 1/27/88—published 4/20/88, effective 5/25/88]
[Filed 3/29/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed 11/17/88, Notice 8/24/88—published 12/14/88, effective 1/18/89]◊
[Filed emergency 5/16/89—published 6/14/89, effective 5/17/89]
[Filed 12/26/89, Notice 10/4/89—published 1/24/90, effective 2/28/90]
[Filed 3/19/90, Notice 1/10/90—published 4/18/90, effective 5/23/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed 1/29/91, Notice 6/13/90—published 2/20/91, effective 3/27/91]
[Filed 1/29/91, Notice 9/19/90—published 2/20/91, effective 3/27/91]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
[Filed 1/21/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
[Filed 2/5/93, Notice 11/11/92—published 3/3/93, effective 4/8/93]
[Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
[Filed 3/21/94, Notices 10/13/93, 12/8/93—published 4/13/94, effective 5/18/94]
[Filed 6/24/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
[Filed 11/30/94, Notices 5/11/94, 7/20/94—published 12/21/94, effective 1/25/95]

[Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
[Filed 10/6/95, Notices 6/7/95, 8/16/95—published 10/25/95, effective 1/1/96]
[Filed emergency 12/14/95—published 1/3/96, effective 1/1/96]
[Filed 12/10/96, Notice 8/28/96—published 1/1/97, effective 2/5/97]
[Filed 2/27/97, Notice 8/28/96—published 3/26/97, effective 4/30/97]
[Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
[Filed 6/23/97, Notice 3/26/97—published 7/16/97, effective 8/20/97]
[Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
[Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 10/15/98]
[Filed 4/22/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
[Filed 11/23/99, Notice 6/2/99—published 12/15/99, effective 1/19/00]
[Filed 2/18/00, Notice 12/15/99—published 3/22/00, effective 4/26/00]
[Filed 11/9/00, Notice 4/19/00—published 11/29/00, effective 1/3/01]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed 3/11/04, Notice 8/6/03—published 3/31/04, effective 5/5/04]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 7/16/04]
[Filed 10/22/04, Notice 3/31/04—published 11/10/04, effective 12/15/04]
[Filed 10/22/04, Notice 5/12/04—published 11/10/04, effective 12/15/04]
[Filed 6/2/05, Notice 3/16/05—published 6/22/05, effective 7/27/05]
[Filed emergency 6/30/05 after Notice 5/11/05—published 7/20/05, effective 7/1/05]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed 5/17/06, Notice 4/12/06—published 6/7/06, effective 7/12/06]
[Filed 5/17/06, Notice 2/15/06—published 6/7/06, effective 10/1/06]
[Filed 11/30/06, Notice 9/27/06—published 12/20/06, effective 1/24/07]
[Filed 2/7/07, Notice 10/25/06—published 2/28/07, effective 4/4/07]
[Filed 5/14/07, Notice 2/28/07—published 6/6/07, effective 7/11/07][◊]
[Filed 8/3/07, Notice 5/9/07—published 8/29/07, effective 10/3/07]
[Filed 8/3/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]
[Filed emergency 11/13/07 after Notice 8/29/07—published 12/5/07, effective 11/13/07]
[Filed 11/13/07, Notice 8/29/07—published 12/5/07, effective 1/9/08]
[Filed 5/19/08, Notice 3/26/08—published 6/18/08, effective 7/23/08]
[Filed 9/5/08, Notice 7/2/08—published 9/24/08, effective 10/29/08]

◊ Two or more ARCs

CHAPTER 13
STERILE COMPOUNDING PRACTICES

657—13.1(124,126,155A) Purpose and scope. These rules establish standards and procedures for the preparation, labeling, and distribution of sterile preparations by licensed pharmacies pursuant to a practitioner's order or prescription; for sterile product quality and characteristics; for personnel training, environmental quality, and equipment standards; and for pharmaceutical care. Sterile compounding differs from nonsterile compounding primarily by requiring the maintenance of sterility when preparations are compounded exclusively with sterile ingredients and components and by requiring the achievement of sterility when preparations are compounded with nonsterile ingredients and components. The standards and procedures outlined in this chapter apply to pharmacy practice when a preparation:

1. Is prepared according to the manufacturer's labeled instructions and requires other manipulations that expose the original contents to potential contamination;
2. Contains nonsterile ingredients or employs nonsterile components or devices that must be sterilized before administration; or
3. Is a biologic, diagnostic, drug, or nutrient that possesses characteristics of either "1" or "2" above and includes, but is not limited to, the following preparations that are required to be sterile when they are administered to patients: baths and soaks for live organs and tissues, injections (e.g., colloidal dispersions, emulsions, solutions, and suspensions), aqueous bronchial and nasal inhalations, irrigations for wounds and body cavities, ophthalmic drops and ointments, and tissue implants.

Standards and safe practices for the compounding of radioactive preparations are identified in 657—Chapter 16.

657—13.2(124,126,155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Anteroom" or *"ante area"* means an ISO Class 8 or superior area where personnel perform hand hygiene and garbing procedures, staging of components, order entry, preparation labeling, and other high-particulate generating activities.

"Aseptic processing" means a method of preparing pharmaceutical and medical products that involves the separate sterilization of the product and of the package, the transfer of the product into the container, and closure of the container under at least ISO Class 5 conditions and using procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

"Beyond-use date" means the date or time following compounding after which the preparation shall not be stored or transported. The beyond-use date is determined from the date or time compounding of the preparation is completed.

"Biological safety cabinet" or *"BSC"* means a ventilated cabinet having an open front with inward airflow for personnel protection, downward HEPA-filtered laminar airflow for product protection, and HEPA-filtered exhausted air for environmental protection.

"Buffer area" or *"cleanroom"* means a room or area where the primary engineering control device is physically located and in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class. Microorganisms in the environment are monitored so that a microbial level for air, surface, and personnel gear is not exceeded for a specified cleanliness class. Activities that occur in the buffer area include the preparation and staging of components and supplies used when sterile preparations are compounded.

"Compounding" means the constitution, reconstitution, combination, dilution, or other process causing a change in the form, composition, or strength of any ingredient or of any other attribute of a product.

"Compounding aseptic isolator" or *"CAI"* means a form of barrier isolator specifically designed for compounding pharmaceutical ingredients or preparations. A CAI is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer

processes. Air exchange into the isolator from the surrounding environment should not occur unless the air has first passed through a microbially retentive filter, HEPA minimum.

"Critical site" means a location that includes any component or fluid pathway surfaces or openings, such as vial septa, injection ports, beakers, opened ampoules, and needle hubs, exposed and at risk of direct contact with air, moisture, or touch contamination.

"Hazardous drug" means a pharmaceutical that is antineoplastic, carcinogenic, mutagenic, or teratogenic.

"HEPA" means high efficiency particulate air.

"High-risk preparation" means a sterile preparation that is compounded from nonsterile ingredients; that is compounded with nonsterile components, containers, or equipment and requires terminal sterilization; or that meets the conditions of rule 13.13(155A).

"ISO Class 5" or *"Class 100 condition"* means an atmospheric environment that contains less than 100 particles, 0.5 microns or larger in diameter per cubic foot of air, according to ISO standards.

"ISO Class 7" or *"Class 10,000 condition"* means an atmospheric environment that contains less than 10,000 particles, 0.5 microns or larger in diameter per cubic foot of air, according to ISO standards.

"ISO Class 8" or *"Class 100,000 condition"* means an atmospheric environment that contains less than 100,000 particles, 0.5 microns or larger in diameter per cubic foot of air, according to ISO standards.

"Laminar airflow workbench" or *"LAFW"* means an apparatus designed to provide an ISO Class 5 environment for the preparation of sterile products that uses air circulation in a defined direction that passes through a HEPA filter to remove the initial particles and the particles generated within the controlled environment.

"Low-risk preparation" means a sterile preparation that is compounded with sterile equipment, sterile ingredients, and sterile contact surfaces or that meets the conditions of rule 13.11(155A).

"Media-fill test" or *"MFT"* means a test used to validate aseptic technique of compounding personnel or of processes and to ensure that the processes used are able to produce sterile product without microbial contamination.

"Medium-risk preparation" means a sterile preparation that is compounded with sterile equipment, sterile ingredients, and sterile contact surfaces and involves complex or numerous manipulations of a sterile product or that meets the conditions of rule 13.12(155A).

"Multiple-dose container" means a multiple-unit container for articles or preparations intended for parenteral administration only and usually containing antimicrobial preservatives.

"Negative pressure room" means a room that is at a lower pressure compared to adjacent spaces, creating a net airflow into the room.

"Positive pressure room" means a room that is at a higher pressure compared to adjacent spaces, creating a net airflow out of the room.

"Preparation" or *"compounded sterile preparation"* means a sterile drug or nutrient that is compounded in a licensed pharmacy or other health care-related facility pursuant to the order of a licensed prescriber, which preparation may or may not contain sterile products.

"Primary engineering control device" means a device or room that provides an ISO Class 5 environment during the compounding process. Such devices include, but may not be limited to, laminar airflow workbenches (LAFWs), biological safety cabinets (BSCs), and compounding aseptic isolators (CAIs).

"Product" means a commercially manufactured sterile drug or nutrient that has been evaluated for safety and efficacy by the FDA.

"Segregated compounding area" means a designated space, either a demarcated area or room, which is restricted to preparing low-risk preparations with 12-hour or less beyond-use date. A segregated compounding area shall contain a device that provides unidirectional airflow of ISO Class 5 air quality for the compounding of sterile preparations and shall be void of activities and materials that are extraneous to sterile compounding.

"Single-dose container" means a single-unit container for articles or preparations intended for parenteral administration only, intended for a single use and labeled as such. Examples include prefilled

syringes, cartridges, fusion-sealed containers, and closure-sealed containers when labeled for a single use or single dose.

"Sterile compounding" means the aseptic processing in a clean air environment of any pharmaceutical preparations that are required to be sterile when they are administered into patient body cavities, central nervous and vascular systems, eyes, and joints, and when used as baths for live organs and tissues, including by not limited to injections (e.g., colloidal dispersions, emulsions, solutions, and suspensions), aqueous bronchial and nasal inhalations, irrigations for wounds and body cavities, ophthalmic drops and ointments, and tissue implants.

657—13.3(155A) Responsibilities.

13.3(1) *Pharmacist.* Each pharmacy shall have a pharmacist responsible for ensuring that:

a. Preparations are accurately identified, measured, diluted, and mixed; and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed.

b. Appropriate cleanliness conditions are maintained, including preservation of the sterile environment during the compounding process.

c. Beyond-use dates are established based on direct testing or extrapolation from reliable literature sources. The pharmacy shall maintain written justification of the chosen beyond-use date or, if a written standard is not available, a maximum 24-hour expiration shall be used.

d. Equipment, apparatus, and devices used to compound a preparation are consistently capable of operating properly and within acceptable tolerance limits.

13.3(2) *In-process checking procedure.* Each pharmacy shall establish a written quality assurance procedure that includes the following in-process checks:

a. Appropriate procedures are followed for measuring, mixing, diluting, purifying, sterilizing, packaging, and labeling of the specific preparation.

b. Packaging selection is appropriate to preserve the sterility and strength of the preparation.

c. All functions performed by nonpharmacists are verified by the pharmacist before the preparation is dispensed to the patient.

13.3(3) *Training documentation.* All personnel involved with compounding, repackaging, or manipulating sterile preparations shall be adequately educated and trained. Training shall include written documentation certifying that compounding personnel are able to adequately complete the following activities:

a. Perform antiseptic hand cleansing and disinfection of nonsterile compounding surfaces.

b. Select and appropriately don protective garb.

c. Maintain or achieve sterility of preparations in ISO Class 5 primary engineering control devices.

d. Identify, weigh, and measure ingredients.

e. Manipulate sterile products aseptically, sterilize high-risk preparations, and label preparations.

f. Protect personnel and compounding environments from contamination by hazardous drugs.

657—13.4 Reserved.

657—13.5(155A) References required. The pharmacy shall have sufficient current reference materials related to sterile products and preparations. References may be printed or computer-accessed. In addition to meeting the requirements set forth in rule 657—6.3(155A), 657—7.3(155A), 657—15.4(155A), or 657—16.5(155A), as applicable, all pharmacies involved in sterile compounding shall maintain a minimum of one current reference, including access to current periodic updates, from each of the following categories:

1. A general information reference.
2. An injectable drug compatibility reference.
3. If the pharmacy is compounding hazardous drugs, a reference related to hazardous drugs.

657—13.6(126,155A) Policies and procedures. A written policy and procedure manual shall be prepared, implemented, maintained, and adhered to for the compounding, dispensing, delivery,

administration, storage, and use of sterile preparations. The manual shall establish policies and procedures relating to subjects identified in this and other rules within this chapter.

13.6(1) *Quality assurance program.* The policy and procedure manual shall include a quality assurance program pursuant to rule 13.31(155A).

13.6(2) *Sampling.* The policy and procedure manual shall include procedures that require sampling of a preparation as provided in rule 13.29(126,155A) or if microbial contamination is suspected.

13.6(3) *Preparation recall.* The policy and procedure manual shall include procedures for the recall of dispensed preparations that fail to meet product quality standards.

13.6(4) *Hazardous products and infectious waste.* The policy and procedure manual shall include procedures for proper handling of hazardous drug products and infectious waste, if applicable.

13.6(5) *Periodic review.* The policy and procedure manual shall be periodically reviewed. Policies shall specify the frequency of review. The manual shall be available for inspection and copying by the board or agents of the board.

657—13.7(126,155A) Labeling requirements.

13.7(1) *Patient-specific dispensing container.* At the time of delivery, a patient-specific dispensing container used for a preparation shall bear a label with at least the following information:

a. Name and quantity of all contents.

b. Patient's name.

c. For home care patient prescriptions, unique serial number or prescription number.

d. Preparer's and reviewing pharmacist's initials or unique identifiers.

e. Stability (beyond-use date) as set forth in the pharmacy's policy and procedure manual.

f. The prescribed flow rate in ml/hr, if applicable.

g. Auxiliary labels as needed.

13.7(2) *Batch preparation.* Each container of a batch preparation that is compounded in anticipation of later dispensing shall bear a label with at least the following information:

a. Name and quantity of all contents.

b. Internal code to identify the date and time of preparation and the preparer's and reviewing pharmacist's initials or unique identifiers.

c. Stability (beyond-use date) as set forth in the pharmacy's policy and procedure manual.

d. Auxiliary labels as needed.

657—13.8 and **13.9** Reserved.

657—13.10(126,155A) Microbial contamination risk levels. Preparations shall be assigned an appropriate risk level—low, medium or high—according to the corresponding probability of contaminating a preparation with microbial contamination such as microbial organisms, spores, and endotoxins, and chemical and physical contamination such as foreign chemicals and physical matter. The characteristics described in rules 13.11(155A), 13.12(155A), and 13.13(155A) are intended as guides to the diligence required in compounding at each risk level.

657—13.11(155A) Low-risk preparations and low-risk preparations with 12-hour or less beyond-use date.

13.11(1) *Conditions defined—low-risk preparations.* Preparations compounded under all of the following conditions are at a low risk of contamination.

a. The preparations are compounded with aseptic manipulations entirely within ISO Class 5 or superior air quality using only sterile ingredients, products, components, and devices.

b. The compounding involves only transferring, measuring, and mixing not more than three commercially manufactured packages of sterile products and not more than two entries into any one container (e.g., bag, vial) of sterile product or administration container or device to make the preparation.

c. Manipulations are limited to aseptically opening ampoules, penetrating sterile stoppers on vials with sterile needles and syringes, and transferring sterile liquids in sterile syringes to sterile administration devices, containers of other sterile products, and containers for storage and dispensing.

d. In the absence of the preparation's passing a sterility test and provided that the preparation is properly stored before administration, storage periods shall not exceed the following:

(1) At controlled room temperature for 48 hours;

(2) At a cold temperature for 14 days; or

(3) In a solid-frozen state between minus 25 and minus 10 degrees Celsius for 45 days.

13.11(2) *Examples—low-risk preparations.* Examples of low-risk compounding include:

a. The single-volume transfer of sterile dosage forms from ampoules, bottles, bags, and vials using sterile syringes with sterile needles, other administration devices, and other sterile containers. When ampoules are employed, solution content shall be passed through a sterile filter to remove any particles.

b. The manual measuring and mixing of no more than three manufactured products including an infusion or diluent solution to compound drug admixtures and nutritional solutions.

13.11(3) *Low-risk preparations with 12-hour or less beyond-use date.* If the primary engineering control device is a CAI and does not meet the requirements described in subrule 13.27(3) or is a BSC or LAFW that cannot be located within an ISO Class 7 buffer area, then only low-risk nonhazardous and radiopharmaceutical preparations compounded pursuant to a prescriber's order for a specific patient may be prepared, and administration of such preparations shall commence within 12 hours of the start of compounding or as recommended in the manufacturers' package insert, whichever is less. Preparations shall meet all four of the following criteria:

a. The primary engineering control device shall be certified and shall maintain ISO Class 5 for exposure of critical sites and shall be in a segregated compounding area restricted to sterile compounding activities that minimize the risk of preparation contamination.

b. The segregated compounding area shall not be in a location that has unsealed windows or doors that connect to the outdoors or high traffic flow, or that is adjacent to construction sites, warehouses, food preparation areas, or other areas presenting a risk of contamination.

c. Personnel shall be appropriately garbed and shall perform appropriate cleansing activities prior to compounding. Sinks should be separated from the immediate area of the ISO Class 5 primary engineering control device.

d. Appropriate procedures for cleaning and disinfecting the sterile compounding areas, for personnel training and competency evaluation, for aseptic practices and cleaning or disinfecting processes, and for environmental air sampling and testing shall be followed.

657—13.12(155A) Medium-risk preparations.

13.12(1) *Conditions defined.* Preparations compounded aseptically under low-risk conditions with one or more of the following additional conditions are at a medium risk of contamination.

a. Multiple individual or small doses of sterile products are combined or pooled to prepare a sterile preparation for administration either to multiple patients or to one patient on multiple occasions.

b. The compounding process includes complex aseptic manipulations other than the single-volume transfer.

c. The compounding process requires an unusually long duration, such as that required to complete dissolution or homogeneous mixing.

d. In the absence of the preparation's passing a sterility test and provided that the preparation is properly stored before administration, storage periods shall not exceed the following:

(1) At controlled room temperature for 30 hours;

(2) At a cold temperature for 9 days; or

(3) In a solid-frozen state between minus 25 and minus 10 degrees Celsius for 45 days.

13.12(2) *Examples.* Examples of medium-risk compounding include:

a. Compounding total parenteral nutrition fluids, using manual or automated devices and involving multiple injections, detachments, or attachments of nutrient source products to the device or machine to deliver all nutritional components to a final sterile container.

b. Filling reservoirs of injection or infusion devices with more than three sterile drug products and evacuating air from those reservoirs before dispensing the filled device.

c. Transferring volumes from multiple ampoules or vials into one or more final sterile containers.

657—13.13(155A) High-risk preparations.

13.13(1) *Conditions defined.* Preparations that are either contaminated or likely to become contaminated with infectious microorganisms when compounded under any of the following conditions are at a high risk of contamination.

a. Nonsterile ingredients, including manufactured products not intended for sterile use, are incorporated or a nonsterile device is used in the compounding process before terminal sterilization.

b. Sterile contents of commercially manufactured products, preparations that lack effective antimicrobial preservatives, and sterile surfaces of devices and containers intended for the preparation, transfer, sterilization, and packaging of preparations are exposed to air quality inferior to ISO Class 5 for more than one hour.

c. Nonsterile procedures such as weighing and mixing in air quality inferior to ISO Class 7 are performed before sterilization, compounding personnel are not properly garbed and gloved, or nonsterile water-containing preparations are stored for more than six hours.

d. The chemical purity and content strength of bulk ingredients, whether the ingredients are in opened or unopened packages, are not verified by examination of labeling and documentation of suppliers or by direct determination.

e. For a sterilized high-risk preparation, in the absence of the preparation's passing a sterility test, the storage periods shall not exceed the following:

(1) At controlled room temperature for 24 hours;

(2) At a cold temperature for 3 days; or

(3) In a solid-frozen state between minus 25 and minus 10 degrees Celsius for 45 days.

13.13(2) *Examples.* Examples of high-risk compounding include:

a. Dissolving nonsterile bulk drugs or nutrient powders to make solutions that will be terminally sterilized.

b. Measuring and mixing sterile ingredients in nonsterile devices before sterilization is performed.

c. Assuming, without appropriate evidence or direct determination, that packages of bulk ingredients contain at least 95 percent by weight of their active chemical moiety and have not been contaminated or adulterated between uses.

d. Exposing the sterile ingredients and components used to prepare and package the preparation to air quality inferior to ISO Class 5 for more than one hour.

657—13.14(155A) Immediate-use preparations. The immediate-use provisions of this rule are intended only for those situations where there is a need for emergency or immediate administration of a sterile preparation. Such situations may include cardiopulmonary resuscitation, emergency room treatment, preparation of diagnostic agents, or critical therapy where the compounding of the preparation under low-risk level conditions would subject the patient to additional risk due to delays in therapy. Immediate-use preparations are not intended for storage for anticipated needs or for batch compounding. Medium-risk and high-risk preparations shall not be compounded as immediate-use preparations. Immediate-use preparations are exempt from the provisions of rule 13.11(155A) for low-risk preparations only when all of the following criteria are met:

1. The compounding process involves simple transfer of not more than three commercially manufactured packages of sterile nonhazardous products or diagnostic radiopharmaceutical products from the manufacturers' original containers and not more than two entries into any one container or package of sterile infusion solution or administration container or device. Hazardous drugs shall not be compounded as immediate-use preparations.

2. Unless required for the preparation, the compounding procedure is a continuous process not to exceed one hour.

3. During compounding, aseptic technique is followed and, if the preparation is not immediately administered, the preparation is under continuous supervision to minimize the potential for contact with nonsterile surfaces, introduction of particulate matter or biological fluids, mix-ups with other sterile preparations, and direct contact with outside surfaces.

4. Administration begins not later than one hour after compounding of the preparation is completed.

5. If administration has not begun within one hour after compounding of the preparation is completed, the preparation is promptly and safely discarded.

6. Unless immediately and completely administered by the person who compounded the preparation or unless immediate and complete administration is witnessed by the person who compounded the preparation, the preparation shall bear a label listing patient identification information, the names and amounts of all ingredients, the name or initials of the person who compounded the preparation, and the exact one-hour beyond-use date and time.

657—13.15(155A) Utilization of single-dose and multiple-dose containers. Pharmacies utilizing single-dose and multiple-dose containers in sterile compounding shall comply with the following:

1. Single-dose containers that are opened or needle-punctured shall be used within one hour if opened in air quality conditions inferior to ISO Class 5. Any remaining contents shall be discarded.

2. Single-dose vials that are continuously exposed to ISO Class 5 or cleaner air shall be used within six hours after initial needle puncture.

3. Opened single-dose ampoules shall not be stored for any period of time under any air quality conditions.

4. Multiple-dose containers with antimicrobial preservatives that are entered or opened shall be used within 28 days of initial entry or opening unless otherwise specified by the manufacturer.

5. Multiple-dose and single-dose sterile products shall not be combined for use as multiple-dose applications.

657—13.16(155A) Utilization of proprietary bag and vial systems. Sterility storage and beyond-use times for attached and activated container pairs of drug products for intravascular administration shall follow manufacturers' instructions for handling and storage.

657—13.17 to **13.19** Reserved.

657—13.20(124,155A) Sterile preparation of hazardous drugs. Hazardous drugs shall only be prepared for administration under conditions that protect pharmacy personnel in the preparation area.

13.20(1) *Storage and handling.* Policies and procedures shall identify appropriate storage and handling of hazardous drugs to prevent contamination and personnel exposure.

13.20(2) *Caution labeling and distribution.* Preparations containing hazardous drugs shall be labeled on the primary container and placed in an overwrap bag that is also properly labeled. Prepared doses of dispensed hazardous drugs shall be labeled and distributed in a manner to minimize the risk of accidental rupture of the primary container. Proper labeling shall include any necessary precautions.

13.20(3) *Preparation area.* All hazardous drugs shall be compounded in a vertical flow Class II or Class III biological safety cabinet or in a compounding aseptic isolator containment and control device with biohazard control capabilities.

a. It is preferable for the ISO Class 5 BSC or CAI to be placed in a contained environment, physically separated from other preparation areas, where air pressure is negative and where the ISO Class 5 BSC or CAI is appropriately vented to the outside of the building.

b. If the pharmacy compounds fewer than five preparations per week in a BSC or CAI and uses a closed system vial transfer device to compound the preparations, the BSC or CAI may be located in a positive pressure room.

13.20(4) *Protective apparel.* Personnel compounding hazardous drugs shall wear appropriate protective apparel in accordance with documented procedures. Protective apparel may include

disposable, nonshedding coveralls or gowns with tight cuffs, face masks, eye protection, hair covers, double gloves, and shoe covers.

13.20(5) *Techniques.* Appropriate safety and containment techniques for compounding hazardous drugs shall be used in conjunction with the aseptic techniques required for processing sterile preparations.

13.20(6) *Training required.* All personnel who compound hazardous drugs shall be fully trained in the storage, handling, and disposal of these drugs. This training shall occur before personnel prepare or handle hazardous preparations and shall be verified and documented for each person at least annually.

13.20(7) *Waste.* Disposal of hazardous waste shall comply with all applicable local, state, and federal requirements.

13.20(8) *Spills of hazardous drugs.* Written procedures for handling both major and minor spills of hazardous drugs shall be developed, maintained, implemented, and adhered to. The procedures shall be maintained with the policies and procedures required in rule 13.6(155A).

657—13.21 and **13.22** Reserved.

657—13.23(124,155A) Verification of compounding accuracy and sterility. Compounding procedures and sterilization methods used for preparations require planned testing, monitoring, and documentation to demonstrate adherence to environmental quality requirements, personnel practices, and procedures critical to achieving and maintaining sterility. Pharmacist verification of a preparation shall include visual inspection of labeling, physical integrity, and expected appearance, including final fill amount.

657—13.24(124,155A) Sterilization methods. The selected sterilization method employed shall be based on experience and appropriate information sources.

13.24(1) *Presterilization requirements for high-risk preparations.*

a. During all compounding activities that precede terminal sterilization, such as weighing and mixing, compounding personnel shall be garbed and gloved in the same manner as when performing compounding in an ISO Class 5 environment. All presterilization procedures shall be completed in an ISO Class 8 or superior environment.

b. Immediately before use, all nonsterile measuring, mixing, and purifying devices used in the compounding process shall be thoroughly rinsed with sterile, pyrogen-free water, and then thoroughly drained or dried.

13.24(2) *Sterilization methods for high-risk preparations.*

a. *Sterilization by filtration.* This method of sterilization involves the passage of a fluid or solution through a sterilizing grade membrane to produce a sterile effluent.

(1) Sterile filters used to sterile filter preparations shall be pyrogen-free and have a nominal porosity of 0.22 microns. The filter dimensions and liquid material to be sterile filtered shall permit the sterilization process to be completed rapidly without the replacement of the filter during the filtering process.

(2) Compounding personnel shall ascertain that selected filters will achieve sterilization of the specific preparation.

(3) Sterilization by filtration shall be performed entirely within an ISO Class 5 or superior air quality environment.

b. *Terminal sterilization.* Use of saturated steam under pressure, or autoclaving, is the preferred method to terminally sterilize aqueous preparations.

(1) All materials shall be exposed to steam at 121 degrees Celsius under the recommended pressure and duration, verified by testing the sterility of the finished preparation.

(2) The description of steam sterilization conditions and duration for specific preparations shall be included in written documentation maintained in the compounding facility.

(3) Before or during entry into final containers, all high-risk preparations in solution form that are subjected to terminal steam sterilization shall pass through a filter with nominal porosity not larger than 1.2 microns for removal of particulate matter.

c. *Dry heat sterilization.* Dry heat sterilization shall be completed in an oven designed for sterilization and shall be used only for those materials that cannot be sterilized by steam. The effectiveness of dry heat sterilization shall be verified using appropriate biological indicators and temperature-sensing devices.

13.24(3) *Records.* Record requirements for high-risk preparations shall include documentation of the following:

a. Lot numbers of nonsterile components used in compounding high-risk preparations.

b. Sterilization records including methods used for each preparation.

13.24(4) *Testing and quarantine requirements.* All high-risk preparations that are prepared in groups of 25 or more identical single-dose containers or in multiple-dose vials for administration to multiple patients, or that are exposed longer than 12 hours at 2 to 8 degrees Celsius and longer than 6 hours at warmer than 8 degrees Celsius, shall be quarantined and tested to ensure that the preparations are sterile before they are dispensed or administered.

13.24(5) *Release of preparations prior to receipt of testing results.* If a preparation may be needed before the results of sterility testing have been received, the pharmacy shall have a written procedure requiring daily observation of incubating test specimens and immediate recall of the dispensed preparations when there is any evidence of microbial growth in the test specimens.

13.24(6) *Bacterial endotoxin (pyrogen) testing.* All high-risk preparations, except those for inhalation and ophthalmic administration, that are prepared in groups of more than 25 identical individual single-dose containers, or in multiple-dose vials for administration to multiple patients, or that are exposed longer than 12 hours at 2 to 8 degrees Celsius and longer than 6 hours at warmer than 8 degrees Celsius before they are sterilized, shall be tested to ensure that the preparations do not contain excessive bacterial endotoxins.

657—13.25(155A) Media-fill testing by personnel. The pharmacy shall develop, maintain, and implement written procedures that include appropriate media-fill testing by personnel authorized to compound preparations. The issues to consider in the development of a media-fill test are media-fill procedures, media selection, fill volume, incubation, time and temperature, inspection of filled units, documentation, interpretation of results, and possible corrective actions required. Tests shall be performed without interruption in an ISO Class 5 environment under conditions that closely simulate the stressful conditions encountered during compounding of the specific risk level preparations for which the test is intended. The pharmacy shall maintain records of media-fill testing performed, and results of testing procedures shall be available to the board or agents of the board. Compounding personnel whose media-fill test vials result in gross microbial colonization shall be immediately reinstructed and reevaluated by expert compounding personnel to ensure correction of all aseptic practice deficiencies.

13.25(1) *Low-risk MFT procedure.* Each person authorized to compound low-risk preparations shall annually perform an appropriate successful MFT procedure. The following is an example of a low-risk MFT procedure:

1. Using the same sterile 10-ml syringe and vented needle combination, aseptically transferring three sets of four 5-ml aliquots of sterile soybean-casein digest medium into separate sealed, empty, sterile 30-ml clear vials (i.e., four 5-ml aliquots into each of three 30-ml vials);

2. Affixing sterile adhesive seal closures onto the three filled vials;

3. Incubating the vials at temperatures between 25 and 35 degrees Celsius for 14 days. Failure is indicated by visible turbidity in the medium on or before the passage of 14 days.

13.25(2) *Medium-risk MFT procedure.* Each person authorized to compound medium-risk preparations shall annually perform an appropriate successful MFT procedure. The following is an example of a medium-risk MFT procedure:

1. Aseptically transferring six 100-ml aliquots of sterile soybean-casein digest medium by gravity through separate tubing sets into separate evacuated sterile containers;

2. Arranging the six containers as three pairs and using a sterile 10-ml syringe and 18-gauge needle combination to exchange two 5-ml aliquots of medium from one container to the other container in the pair (for example, adding 5-ml aliquot from the first container to the second container in the pair, agitating

the second container for 10 seconds, and transferring 5-ml aliquot from the second container back to the first container in the pair; then agitating the first container for 10 seconds and transferring the next 5-ml aliquot from the first container back to the second container in the pair; and repeating the procedure for each pair of containers);

3. Aseptically injecting a 5-ml aliquot of medium from each container into a sealed, empty, sterile 10-ml clear vial using a sterile 10-ml syringe and vented needle. Affixing sterile adhesive seals to the rubber closures on the three filled vials and incubating the vials at temperatures within a range of 20 to 35 degrees Celsius for 14 days. Failure is indicated by visible turbidity in the medium on or before the passage of 14 days.

13.25(3) *High-risk MFT procedure.* Each person authorized to compound high-risk preparations shall semiannually perform an appropriate successful MFT procedure. The following is an example of a high-risk MFT procedure:

1. Dissolving 3 gm of nonsterile commercially available soybean-casein digest medium in 100 ml of nonbacteriostatic water to make a 3 percent solution;

2. Drawing 25 ml of the medium into each of three 30-ml sterile syringes. Transferring 5 ml from each syringe into separate sterile 10-ml vials (these vials are the positive controls to generate exponential microbial growth, which is indicated by visible turbidity upon incubation);

3. Under aseptic conditions and using aseptic techniques, affixing a sterile 0.2 micron porosity filter unit and a 20-gauge needle to each syringe. Injecting the next 10 ml from each syringe into three separate 10-ml sterile vials. Repeating the process into three more vials. Labeling all vials, affixing sterile adhesive seals to the closure of the nine vials, and incubating them at temperatures between 25 and 35 degrees Celsius. Inspecting for microbial growth over 14 days. Failure is indicated by visible turbidity in the medium on or before the passage of 14 days.

657—13.26 Reserved.

657—13.27(124,126,155A) Physical environment requirements. The pharmacy shall have a designated area for compounding sterile preparations, with entry restricted to designated personnel. The area shall be used only for sterile compounding. The area shall be structurally isolated from other areas and shall be designed to avoid unnecessary traffic and airflow disturbances. The area shall be of sufficient size to accommodate at least one primary engineering control device and to provide for the storage of drugs and supplies under appropriate temperature, light, moisture, sanitation, ventilation, and security conditions.

13.27(1) *Requirement for primary engineering control device.* The primary engineering control device shall be capable of maintaining at least ISO Class 5 air quality in the area where critical objects are exposed and critical activities are performed. The device shall be capable of maintaining ISO Class 5 air quality during normal activity. A primary engineering control device includes, but is not limited to, a horizontal or vertical laminar airflow workbench or CAI.

13.27(2) *Placement of primary engineering control device.* The primary engineering control device shall be placed in a buffer area where HEPA filters are employed and the air quality is maintained at ISO Class 7. This area shall have cleanable, nonshedding, smooth surfaces; all junctures shall be coved; and all cracks and crevices shall be caulked. The ceiling shall be impervious and hydrophobic. The buffer area shall not contain any drains or sinks. Only the furniture, equipment, supplies and other material required for compounding activities to be performed shall be brought into the room. Such items brought into the room shall be cleaned and disinfected. Placement in buffer areas of objects and devices not essential to the compounding process is dictated by the measured effect of those objects and devices on the required environmental quality of air atmospheres and surfaces.

13.27(3) *Exception for placement of CAI.* The CAI shall be placed in an ISO Class 7 cleanroom unless the CAI meets each of the following conditions:

a. The CAI provides isolation from the room and maintains ISO Class 5 conditions when ingredients, components, and devices are transferred into and out of the CAI during the preparation process.

b. The manufacturer provides documentation verifying that the CAI meets the standard in paragraph *"a"* when the CAI is located in an environment inferior to ISO Class 7.

13.27(4) *Anteroom requirements.* An anteroom or ante area shall be located adjacent to the buffer area and maintained at ISO Class 8 air quality. This area is to be used for unpacking and disinfecting supplies for storage and for hand sanitizing and gowning. If the sterile preparation area is to be used only for the compounding of low- and medium-risk preparations, the ante area shall be clearly demarcated for the compounding of low- and medium-risk preparations. If the sterile preparation area is to be used for the compounding of high-risk preparations, the ante area shall be physically separated from the buffer area.

13.27(5) *Delayed implementation.* A pharmacy whose sterile compounding area is in substantial compliance with the physical and structural requirements of this rule shall be authorized to engage in the compounding of sterile preparations pursuant to the practice standards established by this chapter and subject to the following:

a. Any pharmacy that commences, on or after July 11, 2007, new construction or remodeling of a pharmacy sterile compounding area shall comply with the physical and structural requirements of this rule.

b. Any pharmacy engaged in the compounding of sterile preparations shall, no later than December 31, 2010, complete any necessary changes or improvements to the sterile compounding area to ensure compliance with the physical and structural requirements of this rule.

657—13.28(155A) Cleaning, maintenance, and supplies. The pharmacy shall have appropriate equipment and supplies and documented procedures for maintaining an environment suitable for the aseptic processing of sterile preparations.

13.28(1) *Supplies and equipment.* Required supplies and equipment shall include, but may not be limited to, the following:

a. Appropriate attire including nonshedding coveralls or gowns, head and facial covers, face masks, appropriate gloves, and shoe covers.

b. A sink with hot and cold running water, with bactericidal soap available for the purpose of hand and forearm scrubs, which shall be located convenient to the area used for compounding sterile preparations but outside the buffer area.

13.28(2) *Documented procedures.* Documented procedures shall include, but not be limited to, the following:

a. Specific cleaning procedures and frequencies for each compounding area involved.

b. Identification of the individual responsible for completing each procedure.

c. A list of approved cleaning agents for each procedure.

d. A written plan and schedule for the evaluation of airborne microorganisms in each controlled air environment (e.g., LAFW, barrier isolators, buffer area, and anteroom).

e. Equipment calibration, annual maintenance, and monitoring of proper function of equipment, apparatus, and devices used to compound sterile preparations.

f. An appropriate cleansing and garbing procedure. Coveralls and gowns may be hung outside the entry in the buffer area and reused for one shift, provided the coveralls and gowns are not visibly soiled and have not been worn during the compounding of hazardous drugs.

657—13.29(126,155A) Environmental monitoring requirements.

13.29(1) *Certification required.* All cleanrooms, laminar airflow workbenches, and barrier isolators shall be certified by an independent contractor according to ISO Standards 14644-1:1999(E) and ISO Standards 14664-3:2005(E), or National Sanitation Foundation Standard 49, for operational efficiency at least every six months and whenever the device or room is relocated or altered or whenever major service to the facility is performed. Inspection and certification records shall be maintained for two years from the date of certification.

13.29(2) *Procedures required.* The pharmacy shall establish written procedures appropriate for the risk level preparations compounded by the pharmacy. The procedures shall include environmental testing, end testing, and evaluation of validation results.

a. *Air sampling.* Microbial sampling of air within the primary engineering control devices, buffer areas, and anterooms is required at least semiannually as part of the recertification of facilities and equipment. If compounding occurs in multiple locations within an institution, environmental sampling is required for each individual compounding area.

b. *Pressure differential monitoring.* A pressure gauge or velocity meter shall be installed to monitor the pressure differential or airflow between the buffer area and the anteroom and between the anteroom and the general pharmacy area. The gauge/meter shall alert the pharmacy when air conditions do not meet recommended conditions, and all compounding shall be discontinued until the alarm condition is corrected. If the gauge/meter is incapable of alerting the pharmacy to inappropriate conditions, the pharmacy shall monitor and review the gauge/meter daily and document the results in a log.

657—13.30 Reserved.

657—13.31(155A) Quality assurance (QA). The pharmacy shall establish, implement, and document an ongoing quality assurance program in order to maintain and improve facilities, equipment, personnel performance, and the provision of patient care.

13.31(1) *Physical performance QA.* The portion of the quality assurance program that monitors facilities, equipment, and personnel performance shall include, but need not be limited to, the following:

a. Methods for verification of automated compounding devices for parenteral nutrition compounding.

b. Methods for sampling finished preparations to ensure that the pharmacy is capable of consistently preparing sterile preparations that meet appropriate risk level specifications and to ensure product integrity.

c. Procedures for inspection of all prescription orders, written compounding procedures, preparation records, and materials used to compound at all contamination risk levels, to ensure accuracy of ingredients, aseptic mixing, sterilizing, packaging, labeling, and expected physical appearance of the finished preparation.

d. Procedures for visual inspection of preparations to ensure the absence of particulate matter in solutions, the absence of leakage from vials and bags, and the accuracy and thoroughness of labeling.

e. Procedures for review of all orders and packages of ingredients to ensure that the correct ingredients and quantity of ingredients were compounded.

f. Methods for routine disinfection and air quality testing of the direct compounding environment to minimize microbial surface contamination and maintain ISO Class 5 air quality.

g. Methods for ensuring personnel qualifications, training, and performance, including periodic performance of applicable MFT procedures.

h. Procedures for visual confirmation that compounding personnel are properly donning and wearing appropriate items and types of protective garments.

i. Methods for establishing beyond-use dates of preparations.

13.31(2) *Care outcomes QA.* The portion of the quality assurance program that monitors patient care shall include, but need not be limited to, the following:

a. Utilizing specific procedures for recording, filing, and evaluating reports of adverse events and the quality of preparation identified in the adverse event.

b. Utilizing written policies and procedures that include specific procedures or instructions for receiving, acknowledging, and dating the receipt of products.

c. Reviewing documented patient or caregiver education and training required pursuant to rule 13.32(155A).

d. Ensuring that a qualified pharmacist is available and accessible at all times to respond to the questions and needs of other health professionals, the patient, or the patient's caregiver.

e. Identifying activities and processes that are deemed high-risk, high-volume, or problem-prone and providing effective corrective actions to remedy these activities and processes.

657—13.32(155A) Patient or caregiver education and training. If sterile preparations are provided to the patient in the home environment, the pharmacist, in conjunction with nursing or medical personnel, shall verify and document the patient's or caregiver's training and competence in managing the type of prescribed therapy.

13.32(1) *Pharmacist involvement.* A pharmacist shall be actively involved in patient training processes relating to drug compounding, labeling, administration, storage, stability, compatibility, or disposal. The pharmacist shall continually reassess the patient's or caregiver's competency in these areas.

13.32(2) *Demonstration and practice.* Training programs shall include hands-on demonstrations and practice with actual items that the patient or caregiver is expected to use in managing the specific type of therapy.

13.32(3) *Additional training tools.* Printed materials and posttraining verbal counseling shall be used periodically, as appropriate, to reinforce initial training programs and to ensure the patient's or caregiver's continuing correct and complete fulfillment of responsibilities.

657—13.33(124,155A) Storage and delivery of sterile preparations. The pharmacy is responsible for proper packaging, handling, transport, and storage of preparations compounded and dispensed by the pharmacy and for appropriate education, training, and supervision of pharmacy and nonpharmacy personnel responsible for such functions. The pharmacy shall establish, maintain, and implement written policies and procedures to ensure product quality and packaging integrity until the preparation is administered.

13.33(1) *Storage areas.* Controlled temperature storage areas within the pharmacy shall be monitored at least once daily and the results documented on a temperature log. Temperature-sensing mechanisms shall be suitably placed within the storage space to accurately reflect the area's temperature.

13.33(2) *Packaging, handling and transport.* Appropriate policies and procedures shall be established, maintained, and implemented by the pharmacy with the involvement of other departments or services whose personnel are responsible for preparation or handling functions outside the pharmacy.

a. Policies and procedures shall include instruction in proper hand washing, aseptic techniques, site care, and change of administration sets to ensure the quality and sterility of the preparation.

b. A pharmacy that compounds or prepares products or devices or uses techniques where in-line filtration, automated infusion control devices, or replenishment of drug products into reservoirs of portable infusion pumps is required shall implement policies and procedures to address the special needs related to those products and techniques.

c. Policies and procedures shall provide for the return to the pharmacy of unused preparations for appropriate disposition. Appropriate disposition may include redispensing only if the continuing quality and sterility of the preparation can be fully ensured. The pharmacy shall be the sole authority for determining whether a preparation that was not administered as originally intended can be used for an alternate patient or under alternate conditions.

d. Policies and procedures regarding the handling of hazardous preparations shall identify safeguards intended to maintain the integrity of the preparations and to minimize the exposure potential of these products to the environment and to personnel who have contact with the products.

These rules are intended to implement Iowa Code sections 124.301, 126.10, 155A.2, 155A.4, 155A.13, 155A.13A, and 155A.28.

[Filed 5/14/07, Notice 2/28/07—published 6/6/07, effective 7/11/07]
[Filed 9/5/08, Notice 7/2/08—published 9/24/08, effective 10/29/08]

CHAPTER 14
VETERANS TRUST FUND

801—14.1(35A) Purpose. These rules establish the requirements for veterans or their spouses or dependents to receive benefits from the veterans trust fund.

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, and was discharged under honorable conditions, or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service.

801—14.3(35A) Eligibility. Veterans, their spouses, and their dependents applying for benefits available under subrules 14.4(1) through 14.4(9) must meet the following threshold requirements.

14.3(1) *Income.* For the purposes of this chapter, an applicant's household income, excluding VA pension benefits and service-connected disability income, shall not exceed 300 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

14.3(2) *Resources.* The department may not pay benefits under this chapter if the available liquid assets of the veteran are in excess of $15,000. For the purposes of this chapter, "available liquid assets" means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant's spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, but does not include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty. Cash surrender value of life insurance policies, real property, established burial account, or a personal vehicle shall not be included as available liquid assets.

14.3(3) *Funding from other sources.* Applications shall not be approved if the applicant is eligible to receive aid from other sources to meet the purposes authorized in this chapter.

14.3(4) *Additional requirements and limitations.* Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit.

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes.

14.4(1) *Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.* Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of $25 per day for required out-of-state medical travel that exceeds 125 miles from the veteran's home. Spouses may be reimbursed for in-state lodging and a per diem of $25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran's home to the hospital must exceed 100 miles. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be $90. The maximum amount of aid payable in a consecutive 12-month period under this subrule is $1,000.

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may pay a veteran not more than $3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service.* The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments of up to $500 per month of unemployment or underemployment to a veteran. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 200 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is $3,000 and a lifetime maximum of $6,000.

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed $2,500 for dental care, $500 for vision care, $1,500 per ear for hearing care, and $1,500 for prescription drugs.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of $5,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed $2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of $5,000.

14.4(6) *Individual counseling or family counseling programs.*

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to $150 per hour and $75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to $40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6)*"f."*

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed $5,000. Individuals seeking counseling services are eligible for up to $2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to $3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to $5,000.

f. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of $5,000.

14.4(7) *Expenses relating to ambulance and emergency room services for veterans.*

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients that cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed $5,000.

14.4(8) *Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.*

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance may be paid directly to the entity performing the maintenance or the insurance company owed the deductible. In certain circumstances, reimbursement may be made to the veteran or to the unremarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed $2,500 for vehicle repair, $3,000 for housing repair, and $1,000 for transitional housing.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of $3,000.

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is $2,500.

14.4(10) *Family support group programs or programs for children of members of the military.*

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is $500.

14.4(11) *Honor guard services.*

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, $25.

(2) If a single veterans organization provides full honors, $50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, $50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, $25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph *"a,"* the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a veterans organization is $500.

d. Veterans service organizations that are not currently providing honor guard services may apply for a $500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under 14.4(11)*"a"* to *"c"* 12 months after the receipt of their original $500 grant.

14.4(12) *Matching funds to veterans service organizations to provide for accredited veteran service officers.*

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available in an amount of up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or $150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than their share of the grant, the grant amount will be reduced to the amount of their previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

801—14.5(35A) Application procedure. Applications for benefits from the veterans trust fund may be obtained at any county veterans affairs office. The county director of veterans affairs shall date-stamp the application and submit it to the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

14.5(1) *Application process.* A person who wishes to apply shall complete an Application for Veterans Trust Fund form and provide such documentation or other evidence as the commission may require in order to determine the awarding or denial of the benefits available under this chapter.

14.5(2) *Date of application.* The date of the application shall be the date the signed application and written verification are received by the county director of veterans affairs.

14.5(3) *Eligibility determination.*

a. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall

approve or deny all applications. Applications that are denied by the subcommittee will be forwarded to the Iowa commission of veterans affairs and will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2)*"a"* or during a conference call for the sole purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission's decision. An explanation of the reasons for rejection of an application will accompany denials.

b. Applications for honor guard reimbursements under subrule 14.4(11) shall be processed solely by the Iowa department of veterans affairs and do not need commission approval for expenditure of trust fund interest balance funds for this purpose.

14.5(4) *Waiting list.* After all veterans trust fund moneys have been obligated, the commission shall deny pending applications.

a. The denial notice shall state either that the applicant meets eligibility requirements but no funds are available and the applicant will be placed on the waiting list or that the applicant does not meet eligibility requirements.

b. Applicants not awarded funding who meet the eligibility requirements shall be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the county commission of veteran affairs. In the event that more than one application is received at one time, the applicant shall be entered on the waiting list on the basis of the day of the month of the person's birthday, the lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

c. When funding allows additional applicants to be approved, their names shall be taken from the statewide waiting list, and their need and eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to each applicant for completion. Packets shall be returned to the Iowa department of veterans affairs within time lines specified by the department. If the signed application and verification of continuing eligibility are not received by the time line specified by the department, the applicant shall not be considered for funding.

801—14.6(35A) Recovery of erroneous payments.

14.6(1) *Erroneous payments.* The commission may recover payments made as a grant under this chapter if any of the following apply:

a. The information provided by the applicant is inaccurate.

b. The commission incorrectly calculated the grant amount.

c. The applicant is not entitled to a grant or is entitled to a lower grant amount as a result of a change in circumstances that affects the applicant's eligibility to receive the grant.

14.6(2) *Amount of recovery.* The commission may recover only the portion of the grant to which the applicant would not have been entitled if the correct information had been provided or if the grant had been properly calculated or as a change in circumstances warrants.

14.6(3) *Remedies.* The commission may request repayment of the amount due under subrule 14.6(2). In lieu of a lump-sum payment, the commission may enter into an agreement under which the applicant may repay the amount due within a 12-month period. If the applicant fails to repay the amount due within 30 days of a request for repayment or fails to comply with the terms of a repayment agreement, the commission may offset future grants that the applicant may be entitled to under this chapter until the amount due has been recovered. The commission may also suspend other benefits available to the applicant until the amount due has been recovered.

14.6(4) *Waiver.* The commission may temporarily or permanently waive its authority to recover payments under subrule 14.6(1) or suspend benefits under subrule 14.6(3) if the applicant's household income is totally exempt from Iowa garnishment law.

14.6(5) *Appeal.* Any commission decision under this chapter is subject to appeal under rule 801—14.7(35A).

801—14.7(35A) Appeal rights.

14.7(1) *Final agency action.* The approval or denial of an application by the commission or the department shall be the final decision of the agency.

14.7(2) *Judicial review.* Judicial review of the commission's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code section 35A.13 as amended by 2007 Iowa Acts, House File 817, section 7.

[Filed 10/4/07, Notice 8/1/07—published 10/24/07, effective 11/28/07]
[Filed emergency 7/9/08—published 7/30/08, effective 7/9/08]
[Filed 9/3/08, Notice 7/30/08—published 9/24/08, effective 10/29/08]

CHAPTER 15
VETERANS COMMEMORATIVE PROPERTY

801—15.1(37A) Purpose. Pursuant to Iowa Code section 37A.1, these rules establish the process for the sale, trade or transfer of veterans commemorative property.

801—15.2(37A) Definitions. For the purposes of this chapter, the following terms are defined as follows:

"Department" means the Iowa department of veterans affairs.

"Veteran" means a deceased person who served in the armed forces of the United States during a war in which the United States was engaged or served full-time in active duty in a force of an organized state militia, excluding service in the National Guard when in an inactive status.

"Veterans commemorative property" means any memorial as defined in Iowa Code section 523I.102, including a headstone, plaque, statue, urn, decoration, flag holder, badge, shield, item of memorabilia, or other embellishment, that identifies or commemorates any veteran or group of veterans, including any veterans organization or any military unit, company, battalion, or division.

"Veterans organization" means the Grand Army of the Republic, Sons of Union Veterans of the Civil War, Sons of Confederate Veterans, Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, Military Order of the Purple Heart, Forty and Eight, Vietnam Veterans of America, United Spanish War Veterans, the Jewish War Veterans of the United States, Inc., the Catholic War Veterans, Inc., American Legion, American Veterans of World War II, Italian American War Veterans of the United States, Inc., or other corporation or association of veterans.

801—15.3(37A) Notification procedure.

15.3(1) *Notification.* Prior to the sale, trade or transfer of veterans commemorative property, a person who owns or controls a property where veterans commemorative property has been placed shall provide notice to the department and obtain written authorization. Notification to the department shall be submitted for review on forms provided by the department 60 days prior to the proposed transaction date of the veterans commemorative property.

15.3(2) *Notification forms.* Notification forms may be obtained from the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824, or from the department's Web site at www.iowava.org.

801—15.4(37A) Transaction approval. Upon receipt of transaction notification and supporting documentation, the department shall take action on the request within a reasonable time frame not to exceed 60 days. The following criteria will be considered in evaluating a request:

15.4(1) *Risk of deterioration.* The department may authorize the sale, trade, or transfer of veterans commemorative property, if the veterans commemorative property is determined to be at risk of deterioration to a point where the veteran, group of veterans, or veterans organization that the property commemorates will be unrecognizable.

15.4(2) *Relocation of veterans commemorative property to a suitable location.* The department may authorize the sale, trade, or transfer of veterans commemorative property if the transaction will be made with an individual or organization that will preserve the current condition of the property and will display the property in a manner that will commemorate the veteran, group of veterans, or veterans organization for which the property was intended.

15.4(3) *To provide for the maintenance of cemetery property.* The department may authorize the sale, trade, or transfer of veterans commemorative property if the transaction is necessary to ensure that sufficient funds are available to maintain the cemetery where the veterans commemorative property is placed and the specific lot, plot, grave, burial place, niche, crypt, or other place of interment of a veteran or group of veterans.

15.4(4) *Veterans commemorative property will be suitably replaced.* The department may authorize the sale, trade, or transfer of veterans commemorative property if the property will be replaced at the

same site, with a memorial that will continue to commemorate the veteran, group of veterans, or veterans organization that the original memorial was intended to honor.

15.4(5) *Donating veterans organization approval.* The department may authorize the sale, trade, or transfer of veterans commemorative property if the veterans organization that is believed to have donated the property consents to the transaction.

15.4(6) *Lending owner approval.* The department may authorize the sale, trade, or transfer of veterans commemorative property if the owner of the property authorizes the transaction and is aware that the entity in possession of the property will retain the proceeds of the transaction.

801—15.5(37A) Appeals.

15.5(1) *Final department action.* Action taken on the application shall be the final decision of the department.

15.5(2) *Review.* Review of the department's final decision may be sought in accordance with Iowa Code section 17A.19. Written notice of appeal should be directed to the Executive Director, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824, within 30 days of receipt of final department action.

801—15.6(37A) Penalty. Engaging in the sale, trade, or transfer of veterans commemorative property without department authorization is punishable as a simple misdemeanor pursuant to Iowa Code section 37A.1(3).

These rules are intended to implement Iowa Code section 37A.1 as amended by 2008 Iowa Acts, Senate File 2333.

[Filed 11/28/07, Notice 10/24/07—published 12/19/07, effective 1/23/08]
[Filed 9/3/08, Notice 7/30/08—published 9/24/08, effective 10/29/08]

CHAPTER 16
LIMITED RESIDENCY VIETNAM CONFLICT VETERANS BONUS

801—16.1(82GA,HF2283) Bonus for persons serving in the Vietnam service area.

16.1(1) *Service requirement.* A person who served on active duty for not less than 120 days in the armed forces of the United States at any time between July 1, 1958, and May 31, 1975, both dates inclusive, and who was inducted into active duty service from the state of Iowa and was honorably discharged or separated from active duty service, or is still in active service in an honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive status is entitled to receive from moneys appropriated for that purpose the sum of $17.50 for each month that the person was on active duty service in the Vietnam service area, within the dates specified in this subrule, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal-Vietnam or can otherwise establish service in the Vietnam service area during that period.

16.1(2) *Limited eligibility requirements.* A person eligible to receive compensation pursuant to 16.1(1) shall be entitled to compensation pursuant to this rule only if all of the following requirements are met:

a. The person has not received a bonus or compensation similar to that provided in this chapter from this state or another state.

b. The person was on active duty service after July 1, 1958, and the person did not refuse on conscientious, political, religious, or other grounds, to be subject to military discipline.

c. The person made application for a bonus or compensation similar to that provided in this chapter from this state and was denied compensation because the person did not meet the applicable residency requirements.

d. The person files an application for compensation under this chapter in a manner determined by the department of veterans affairs by July 1, 2010.

16.1(3) *Compensation.* Compensation for persons who served in the Vietnam service area shall be as follows:

a. The amount of compensation shall be the sum of $17.50 for each month that the person was on active duty service in the Vietnam service area, within the dates specified in subrule 16.1(1).

b. In addition, the person shall receive compensation at the sum of $12.50 for each month that the person was on active duty service within the dates specified in subrule 16.1(1) and was not in the Vietnam service area. For example, a person who served six months in the Vietnam service area and six months not in the Vietnam service area will receive compensation for six months at $17.50 per month, which is $105, and six months at $12.50 per month, which is $75, for a total compensation payment of $180.

c. Compensation under this subrule shall not exceed a total sum of $500. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

801—16.2(82GA,HF2283) Bonus for persons serving outside the Vietnam service area.

16.2(1) *Service requirement.* A person serving outside the Vietnam service area is a person otherwise qualified under subrule 16.1(1) except that the person did not earn either a Vietnam service medal or an armed forces expeditionary medal-Vietnam and did not serve in the Vietnam service area during the period between July 1, 1958, and May 31, 1975, both dates inclusive.

16.2(2) *Limited eligibility requirements.* A person eligible to receive compensation pursuant to 16.2(1) shall be entitled to compensation pursuant to this rule only if all of the following requirements are met:

a. The person has not received a bonus or compensation similar to that provided in this chapter from this state or another state.

b. The person was on active duty service after July 1, 1958, and the person did not refuse on conscientious, political, religious, or other grounds, to be subject to military discipline.

c. The person made application for a bonus or compensation similar to that provided in this chapter from this state and was denied compensation because the person did not meet the applicable residency requirements.

d. The person files an application for compensation under this chapter in a manner determined by the department of veterans affairs by July 1, 2010.

16.2(3) *Compensation.* Compensation shall be the sum of $12.50 for each month that the person was on active duty service within the dates specified in subrule 16.2(1). Compensation under this subrule shall not exceed a total sum of $300. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

801—16.3(82GA,HF2283) Definition of active duty. "Active duty" means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

801—16.4(82GA,HF2283) Survivor compensation. The surviving unremarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person shall be paid the compensation that the deceased person would be entitled to pursuant to this chapter, if living. However, if any person dies or is disabled from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this chapter, the person or the first survivor as designated by this rule, and in the order named, shall be paid $500 or $300, whichever maximum amount would have applied pursuant to rule 801—16.1(82GA,HF2283) or 801—16.2(82GA,HF2283), regardless of the length of service.

801—16.5(82GA,HF2283) Penalties. A person who knowingly makes a false statement relating to a material fact in supporting an application under this chapter is guilty of a serious misdemeanor. A person convicted under 2008 Iowa Acts, Senate File 2283, section 4, shall forfeit all benefits to which the person may have been entitled under this chapter.

801—16.6(82GA,HF2283) Tax exemption. All payments and allowances made under this chapter shall be exempt from taxation, levy, and sale on execution.

801—16.7(82GA,HF2283) Application procedures and determination of eligibility.

16.7(1) *Application procedures.* Application shall be made on forms provided by the Iowa department of veterans affairs. Applications may be obtained from the department at the address listed in subrule 16.7(4) or from the department's Web site at www.iowava.org. The applicant shall provide the information requested on the application and include any additional documentation required (for example, a copy of the applicant's DD Form 214). The completed application, including documentation, shall be returned to the department at the address listed in subrule 16.7(4).

16.7(2) *Department processing and investigation.* The executive director of the Iowa department of veterans affairs will approve or disapprove the application.

16.7(3) *Appeals procedure.* Decisions of the executive director are subject to review by the commission pursuant to 801—Chapter 8. Applicants may appeal the decisions of the commission as provided by Iowa Code section 17A.19.

16.7(4) *Office address.* Persons may contact the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824; telephone (515)242-5331 or 1-800-838-4692; fax (515)242-5659. The department's Web address is www.iowava.org.

801—16.8(82GA,HF2283) Bonus restrictions and limitations. All bonuses under the program are subject to funding availability. Bonuses will be awarded in the order in which completed applications are received.

These rules are intended to implement 2008 Iowa Acts, House File 2283.

[Filed emergency 7/9/08—published 7/30/08, effective 7/9/08]

[Filed 9/3/08, Notice 7/30/08—published 9/24/08, effective 10/29/08]

VETERINARY MEDICINE BOARD [811]

Rules renumbered and transferred from agency number[842] to [811] to conform with the reorganization numbering scheme in general.

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DESCRIPTION OF ORGANIZATION AND DEFINITIONS

[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 1]

811—1.1(17A,169) Organization and duties. The board of veterinary medicine shall consist of five members, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians and who shall represent the general public. One public member may be a graduate of an AVMA-accredited school of veterinary technology and be credentialed in Iowa as a veterinary technician. The state veterinarian shall serve as secretary. The board may administer examinations to applicants for a license or temporary permit to practice veterinary medicine and to applicants for licenses or certificates for auxiliary personnel. The board shall investigate and discipline, as necessary, persons for whom credentials have been issued or who are engaged in an activity regulated by the board.

811—1.2(17A,169) Headquarters of the board. The official mailing address of the board is: Iowa Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053.

811—1.3(17A,169) Meetings. The board shall meet once a year at its headquarters and shall hold additional meetings as necessary for the purpose of administering examinations and conducting its duties. The organizational meeting shall be the first board meeting of the fiscal year. The fiscal year begins July 1. Three members shall constitute a quorum authorized to act in the name of the board.

811—1.4(17A,169) Definitions. As used in these rules, unless the context otherwise requires:

"AAVSB" means the American Association of Veterinary State Boards.

"AVMA" means the American Veterinary Medical Association.

"AVMA-accredited" means colleges in the United States and foreign colleges evaluated by the AVMA Council on Education and found to meet accreditation standards as published.

"AVMA-listed" means a foreign college recognized by the World Health Organization or the government of its own country whose graduates are eligible to practice veterinary medicine in that country and whose graduates may qualify for entrance in the ECFVG certification program.

"Board" means the Iowa board of veterinary medicine.

"Certificate" means a credential issued by the board to practice on an animal as a certified veterinary student pursuant to 811—subrule 6.6(3).

"Certificate holder" means a person issued a certificate by the board.

"Credential" means, as applicable, a certificate, license, or permit issued by the board.

"Credential holder" means a person who holds a certificate, license, or permit issued by the board.

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

"Direct supervision" means that a licensed veterinarian is on the premises and is readily available.

"ECFVG" means the Educational Commission for Foreign Veterinary Graduates.

"License" means a credential issued by the board that permits a person to practice veterinary medicine.

"Licensee" means a person holding a license issued by the board.

"NAVLE" means the North American Veterinary Licensing Examination.

"NBVME" means the National Board of Veterinary Medical Examiners.

"PAVE" means the Program for the Assessment of Veterinary Education Equivalence.

"Permit" means a temporary educational permit or a temporary in-state practice permit issued by the board pursuant to rule 811—9.1(169).

"Permit holder" means a person holding a permit issued by the board.

"RACE" means the Registry of Approved Continuing Education, which is the national clearinghouse for approval of continuing education providers and their programs. All RACE-approved continuing education providers and programs are listed on the American Association of Veterinary State Boards Web site.

"Veterinarian" means a person who has received a doctor of veterinary medicine degree or its equivalent from an AVMA-accredited, -approved or -listed college of veterinary medicine.

"VTNE" means the Veterinary Technician National Examination.

These rules are intended to implement Iowa Code section 17A.3 and chapter 169.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/81]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/25/84]
[Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 2
PETITIONS FOR RULE MAKING

[Prior to 2/8/89, Veterinary Medicine, Board of[842] 1.4]

Insert the petition for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the addition of a new rule 811—2.5(17A) and the following amendments:

811—2.1(17A) Petition for rule making. In lieu of the words "agency, at (designate office)", insert "Board of Veterinary Medicine at the Iowa Department of Agriculture and Land Stewardship, State Veterinarian, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053". In lieu of the words "(AGENCY NAME)", the heading on the petition should read:

BEFORE THE
BOARD OF VETERINARY MEDICINE

811—2.3(17A) Inquiries. Substitute the following information for the parenthetical statement at the end: "the State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053".

811—2.5(17A) Petitions received by department. If, pursuant to rule 21—3.5(17A), the secretary of agriculture receives and forwards a petition for rule making which is not within the rule-making power of the secretary but which is within the rule-making power of the board, the petition will be accepted for action by the board.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 3
DECLARATORY ORDERS

[Prior to 2/8/89, Veterinary Medicine, Board of[842] 1.5]

The veterinary medicine board hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments:

811—3.1(17A,169,272C) Petition for declaratory order. In lieu of the words "(designate agency)" the first time the words are used, insert "board of veterinary medicine (hereinafter referred to as "the board")". In lieu of the words "(designate agency)" the subsequent times the words are used, insert "board". In lieu of the words "(designate office)", insert "State Veterinarian's Office, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053". In lieu of the words "(AGENCY NAME)", insert "BOARD OF VETERINARY MEDICINE".

811—3.2(17A,169,272C) Notice of petition. In lieu of the words and numbers "_____days (15 or less)", insert "15 days". In lieu of the words "(designate agency)", insert "board".

811—3.3(17A,169,272C) Intervention.

3.3(1) In lieu of the words "_____ days", insert "20 days".

3.3(2) In lieu of the words "(designate agency)", insert "the board".

3.3(3) In lieu of the words "(designate office)", insert "the state veterinarian's office at the department of agriculture and land stewardship in the Wallace State Office Building". In lieu of the words "(designate agency)", insert "board". In lieu of the words "(AGENCY NAME)", insert "BOARD OF VETERINARY MEDICINE".

Delete paragraph 6 and insert in lieu thereof the following:

"6. A statement that the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding."

811—3.4(17A,169,272C) Briefs. In lieu of the words "(designate agency)", insert "board".

811—3.5(17A,169,272C) Inquiries. In lieu of the words "(designate official by full title and address)", insert "the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053".

811—3.6(17A,169,272C) Service and filing of petitions and other papers.

3.6(2) In lieu of the words "(specify office and address)", insert "the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053". In lieu of the words "(agency name)", insert "board".

3.6(3) In lieu of the words "(uniform rule on contested cases X.12(17A))", insert "rule 10.23(17A,169,272C)".

811—3.7(17A,169,272C) Consideration. In lieu of the words "(designate agency)", insert "board".

811—3.8(17A,169,272C) Action on petition.

3.8(1) In lieu of the words "(designate agency head)", insert "the chairperson of the board".

3.8(2) In lieu of the words "(contested case uniform rule X.2(17A))", insert "rule 10.14(17A,169,272C)".

811—3.9(17A,169,272C) Refusal to issue order.

3.9(1) In lieu of the words "(designate agency)", insert "board".

811—3.12(17A,169,272C) Effect of a declaratory order. In lieu of the words "(designate agency)", insert "board". Delete the words "(who consent to be bound)".

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

[Prior to 2/8/89, Veterinary Medicine, Board of[842] 1.4]

The veterinary medicine board hereby adopts the agency procedure for rule making segment of the uniform rules on agency procedure printed in the first volume of the Iowa Administrative Code with the following amendments:

811—4.1(17A,169,272C) Applicability. In lieu of the word "agency", insert "the board of veterinary medicine (hereinafter referred to as "the board")".

811—4.3(17A,169,272C) Public rule-making docket.

4.3(2) In lieu of the words "(commission, board, council, director)", insert "board".

811—4.4(17A,169,272C) Notice of proposed rule making.

4.4(3) In lieu of the words "(specify time period)", insert "one year".

811—4.5(17A,169,272C) Public participation.

4.5(1) In lieu of the words "(identify office and address)", insert "the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053".

4.5(5) In lieu of the words "(designate office and telephone number)", insert "the state veterinarian office at (515)281-8617".

811—4.6(17A,169,272C) Regulatory analysis.

4.6(2) In lieu of the words "(designate office)", insert "state veterinarian's office".

811—4.10(17A,169,272C) Exemptions from public rule-making procedures.

4.10(2) is not adopted.

811—4.11(17A,169,272C) Concise statement of reasons.

4.11(1) In lieu of the words "(specify the office and address)", insert "the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053".

811—4.13(17A,169,272C) Agency rule-making record.

4.13(2) In lieu of the words "(agency head)", insert "chairperson of the board".

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Insert the fair information practices segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the addition of new rules 811—5.9(17A,22) to 811—5.16(17A,22) and the following amendments:

811—5.1(17A,22) Definitions. In lieu of the words "(official or body issuing these rules)" insert "board of veterinary medicine".

811—5.3(17A,22) Requests for access to records.

5.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "state veterinarian as secretary of the board of veterinary medicine". In lieu of the words "(insert agency name and address)", insert "Board of Veterinary Medicine, State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053".

5.3(2) *Office hours.* In lieu of the parenthetical statement, insert "8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays".

5.3(7) *Fees.*

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

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

811—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)" insert "the board of veterinary medicine".

811—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 5.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

811—5.10(17A,22) Routine use.

5.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

5.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

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

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

811—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

811—5.12(17A,22) Release to subject.

5.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 5.6(17A,22). However, the agency need not release the following records to the subject:

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

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

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

d. As otherwise authorized by law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

811—5.13(17A,22) Availability of records.

5.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

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

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

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

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

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

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling

commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

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

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

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

h. Any other records made confidential by law.

5.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 5.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

811—5.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 5.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Unless otherwise stated, the authority for this agency to maintain the record is provided by Iowa Code chapter 169. The record systems maintained by the agency are:

5.14(1) *Personnel files.* "Employees" of the agency are employed through the department of agriculture and land stewardship. Through the department of agriculture and land stewardship, the agency maintains files containing information about "employees," families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. This material includes personally identifiable information such as name, address, social security number and employee payroll number. Some of this information is confidential under Iowa Code section 22.7(11). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

5.14(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

5.14(3) *Contested case matters.* These records are collected and maintained pursuant to Iowa Code sections 17A.3(1)*"d,"* 17A.3(2), and 17A.12, and the Iowa Code sections noted in subrule 5.14(4). Contested case matters include all pleadings, motions, briefs, orders, transcripts, exhibits, and physical

evidence utilized in the resolution of the matter, and may, unless released by the credential holder, be confidential as stated in subrule 5.14(4). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

5.14(4) *Credential records.* Under Iowa Code chapter 169, the board regulates by license veterinarians, and regulates by certificate veterinary technicians, assistants and veterinary students, and regulates by temporary permit veterinarians credentialed under Iowa Code section 169.11 and rule 811—9.1(169), Iowa Administrative Code. Credential records include, but are not limited to, information identifying the credential holder by name or code, location, and form of business entity, including the names of corporate principals. These records may include examinations, complaints, compliance activities and investigatory reports that are confidential. These records may include confidential information protected from disclosure under Iowa Code sections 22.7, 169.6 and 272.6. These records are maintained jointly with the department of agriculture and land stewardship. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

5.14(5) *Laboratory reports.* In furtherance of licensure and certification regulation under subrule 5.14(4), the board may procure laboratory reports consisting of analytical results of samples. These records may include confidential information protected from disclosure under Iowa Code section 22.7(3), 22.7(6), or 22.7(18), as well as those provisions stated in subrule 5.14(4). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system. These records are identified by the name or code of the subject of the investigation.

811—5.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 5.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 5.13(17A,22). The records listed may contain information about individuals.

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

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

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

4. Board records. Agendas, minutes, and materials prepared or maintained by the board are available from the office, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

5. All other records that are not exempted from disclosure by law.

811—5.16(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

811—5.17(169,252J) Release of confidential licensing information for child support recovery purposes. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying applicants or credential holders subject to enforcement under Iowa Code chapter 252J or 598.

811—5.18(17A,22,169,261) Release of information to the college student aid commission. Notwithstanding any statutory confidentiality provisions, the board may share

information with the college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code chapter 261.

These rules are intended to implement Iowa Code chapters 17A, 22, 169 and 252J.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 8/9/96, Notice 5/22/96—published 8/28/96, effective 10/2/96]
[Filed 10/27/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 6
APPLICATION FOR VETERINARY LICENSURE

[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 2]

Chapter 6, Suspension or Revocation of License, rescinded IAC 2/8/89; see 811—Ch 10.

811—6.1(169) Procedure.

6.1(1) *Application to take examination.* Any person desiring to take the NAVLE in Iowa for a license to practice veterinary medicine shall make application to the board in accordance with the guidelines and time lines established by the NBVME. The applicant shall submit to the board proof of completing the application process with NBVME along with the administrative fee by sending the proof and fee to:

Iowa Board of Veterinary Medicine
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 E. 9th Street
Des Moines, Iowa 50319-0053

Proof of NAVLE application shall be submitted to the board in accordance with the guidelines and time lines established by the NBVME on forms to be provided by the board. The form shall be notarized and completely filled out. The completed form shall include one current passport size and quality photograph of the applicant. Incomplete applications shall be returned to the applicant along with the tendered fee and a written statement setting forth the reasons for such rejections.

The form shall be accompanied by satisfactory evidence of the applicant's having graduated from an AVMA-accredited school of veterinary medicine or satisfactory evidence that the applicant is expected to graduate within six months of the date of the examination.

Applications to take the NAVLE will not be accepted from any person who has previously taken and passed that examination in any jurisdiction, except on case-by-case petition to the board for good cause shown or other order of the board.

6.1(2) *License requirements.* Prior to the board's issuance of a license, the applicant shall:

a. Successfully complete the NAVLE as provided in rule 811—7.1(169);

b. Remit the proper application fee for licensure;

c. Graduate from:

(1) An AVMA-accredited school of veterinary medicine; or

(2) An AVMA-listed school of veterinary medicine and have received a certificate from either ECFVG or PAVE;

d. Provide a statement indicating all jurisdictions in which the applicant is or has ever been licensed to practice veterinary medicine. The applicant shall provide information and shall consent to release to the board license information from jurisdictions in which the applicant is or has ever been licensed;

e. Provide information or consent to the release of information pertinent to the character and education of the applicant as the board may deem necessary in order to evaluate the applicant's qualifications; and

f. Submit evidence of having completed at least 60 hours of approved continuing education within the last three licensing years. New graduates and applicants within one year after the date of graduation are exempt from continuing education requirements for initial licensing. Applicants who apply more than one year but less than two years after the date of graduation must complete at least 20 hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation must have completed at least 40 hours of approved continuing education. As used in this paragraph, "date of graduation" also includes the date of PAVE or ECFVG certification.

A license issued during a triennium, upon the applicant's completion of these requirements and payment of the prorated triennial license fee, shall be issued for the balance of the triennium. A license shall expire on June 30 of the third year if the triennium.

811—6.2(169) Fee schedule for veterinarians. The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the

applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. Examination fees shall be nontransferrable from one examination to another.

The fee for the NAVLE, which is utilized by the board as a part of the licensure process, shall be the fee charged that year by NBVME, plus an administrative fee payable to the board.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

License—application fee	$50
NBVME examination fee	set by NAVLE
Board administrative fee for NAVLE	$25
State veterinary examination fee	set by board
State veterinary administration fee	set by board
Triennial license	$60
Late renewal penalty	$100
License by endorsement—application fee	$50
Reactivation fee for lapsed or inactive license	$100
Reinstatement fee	$100
Duplicate license	$15
Temporary permit	$35
Temporary permit application fee	$15
Official licensure verification	$15
Charge for insufficient funds or returned checks	$25
Senior student certificate	$0

This rule is intended to implement Iowa Code section 169.5.

811—6.3(169) Reactivation fee. All applications for reactivation of a lapsed or inactive license to practice veterinary medicine shall be filed with the secretary of the board, together with the then current license fee, the current reactivation fee, and all applicable penalties for a lapsed or inactive license.

811—6.4(169) Graduates of foreign schools. Graduates of foreign veterinary schools may become eligible for examination and licensure by either of the following methods:

6.4(1) *Examination eligibility through ECFVG.* Graduates of foreign veterinary schools which, pursuant to the AVMA criteria, are not AVMA-accredited but are AVMA-listed may make application to take the NAVLE in this state provided that the application includes a copy of the applicant's diploma or certificate indicating the award of a degree in veterinary medicine from an AVMA-listed college and a letter from the ECFVG verifying that the applicant is or will be participating in an ECFVG certification program.

6.4(2) *Licensure eligibility through ECFVG.* Graduates of foreign veterinary schools which are not AVMA-accredited but are AVMA-listed will not be considered for licensing until they have received the certificate granted by the ECFVG. A license will not be issued to an applicant until the applicant submits a certified copy of the applicant's ECFVG certificate.

6.4(3) *Examination eligibility through PAVE.* Graduates of foreign veterinary schools may make application to take the NAVLE in this state provided that the application includes a certified copy of the applicant's diploma or certificate indicating the award of a degree in veterinary medicine from a foreign veterinary school and a letter from the AAVSB on behalf of PAVE verifying that the applicant is participating in the PAVE certification program administered by the AAVSB, and has met the requirements for taking the NAVLE.

6.4(4) *Licensure eligibility through PAVE.* Graduates of foreign veterinary schools will not be considered for licensing until they have received the certificate granted by PAVE. A license will not be issued to an applicant until the applicant submits a copy of the applicant's PAVE certificate.

811—6.5(169) License by endorsement.

6.5(1) A license by endorsement may be granted by the board pursuant to either Iowa Code section 169.10(1) or 169.10(2). An applicant shall make application for a license by endorsement on a form provided by the board. The application fee and triennial license fee shall accompany the application. In addition to the information specified in Iowa Code section 169.10, the applicant shall supply all of the following:

a. A statement indicating all jurisdictions in which the licensee is or has ever been licensed to practice veterinary medicine. The applicant shall provide information and shall consent to the release of information to the board from jurisdictions in which the applicant is or has ever been licensed.

b. Information pertinent to the character and education of the applicant as the board may deem necessary in order to evaluate the applicant's qualifications.

c. Evidence of approved continuing education totaling at least 60 hours obtained within the last three licensing years. New graduates and applicants within one year after graduation are exempt from continuing education requirements for initial licensing. Applicants who apply more than one year but less than two years after the date of graduation must complete at least 20 hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation must have completed at least 40 hours of approved continuing education. As used in this paragraph, "date of graduation" also includes the date of PAVE or ECFVG certification. Foreign graduates licensed by PAVE or ECFVG certification are exempt from the continuing education requirement for one year from the date of certification by PAVE or ECFVG.

6.5(2) For an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1), the following shall apply:

a. If the applicant's non-Iowa license was issued between December 31, 1964, and December 31, 1979, the applicant shall have successfully completed the National Board Examination (NBE).

b. If the applicant's non-Iowa license was issued between January 1, 1980, and December 31, 2000, the applicant shall have successfully completed the National Board Examination (NBE) and the Clinical Competency Test (CCT).

c. If the applicant's non-Iowa license was issued on or after January 1, 2001, the applicant shall have successfully completed the NAVLE in accordance with rule 811—7.1(169).

6.5(3) An applicant who is a diplomate under Iowa Code section 169.10(2) shall also include a copy of the applicant's board or college specialty certificate. For the purpose of this rule, a specialty board or college means a specialty board or college which has been officially recognized by the AVMA. Changes of specialty status shall be reported to the board within 30 days of the action.

811—6.6(169) Issuance of limited license; specialization.

6.6(1) The board may grant a license to practice veterinary medicine within a limited and specified scope:

a. As an option for board discipline under 811—Chapter 10.

b. To a qualified member of the faculty of the Iowa State University College of Veterinary Medicine.

c. To an applicant requesting limited or specialized status.

6.6(2) A licensed veterinarian shall not claim or imply specialization unless the veterinarian is a diplomate in good standing of the respective specialty board or college recognized by the AVMA.

6.6(3) Veterinary student certificate. The board may issue a veterinary student certificate to a senior veterinary student who is attending an AVMA-accredited college of veterinary medicine, upon endorsement by the college that the student is competent to perform veterinary duties. The certificate issued by the board shall limit the student to performing duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian. Veterinary student

certificate holders are prohibited from administering rabies vaccine to dogs as described in Iowa Code section 351.35 and signing a certificate of veterinary inspection as described in Iowa Code section 163.12.

6.6(4) Limited licensure for faculty. Faculty, not including residents or interns, at Iowa State University College of Veterinary Medicine may be issued a limited license to practice veterinary medicine. The applicant for a limited license for faculty shall have graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or have received a PAVE or ECFVG certificate and shall submit a completed application and the required fees. Holders of limited licenses for faculty are limited to duties performed on the college premises during periods of employment at the college.

811—6.7(169) License renewal.

6.7(1) A license to practice veterinary medicine shall be issued for a three-year period, except that new licenses issued during a triennium shall be issued for the balance of that triennium, except that new certificates issued during a triennium shall be issued for the balance of the triennium and the certificate fee shall be prorated. A license shall expire on June 30 of the third year of the triennium.

6.7(2) At least two months before the end of a triennium, a renewal notice will be sent to each licensee at the last address in the board's file. Failure to receive the notice shall not relieve the licensee of the obligation to pay triennium renewal fees on or before June 30.

6.7(3) The license renewal application shall include a statement which certifies the jurisdictions in which the licensee is currently or has in the past been licensed to practice veterinary medicine.

6.7(4) Renewal fees shall be received by the board on or before the end of the triennium on June 30. Whenever renewal fees are not received as specified, the license lapses and the practice of veterinary medicine must cease until all renewal fees and penalty fees are received by the board.

6.7(5) If the renewal fee has not been received by the board before the license has lapsed, an application for renewal must be filed with the board with a renewal fee in addition to the reactivation fee and the late renewal penalty fee.

811—6.8(169,261) Issuance or renewal of a license to practice veterinary medicine—denial. The board shall deny the issuance or renewal of a license to practice veterinary medicine upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, chapter 1081. In addition to the procedures contained therein, the following shall apply.

6.8(1) The notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant may accept service personally or through authorized counsel.

6.8(2) The effective date of the denial of the issuance of the license or renewal of a license, as specified in the notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be 60 days following service of the notice upon the applicant.

6.8(3) The board's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, chapter 1081, section 6, upon the applicant.

6.8(4) Applicants shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, chapter 1081, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

6.8(5) All board fees required for application or renewal must be paid by applicants and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

6.8(6) In the event an applicant timely files a district court action following service of a board notice pursuant to 1998 Iowa Acts, chapter 1081, sections 6 and 7, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial

of the issuance or renewal of a license, the board shall count the number of days before the court action was disposed of by the court.

6.8(7) The board shall notify the applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license and shall similarly notify the applicant when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

811—6.9(169) Renewal, lapsed or inactive license. A veterinarian whose license has lapsed may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed since the date of expiration, a license may not be renewed, and the veterinarian must make application for a new license and take the license examination. A veterinarian whose license has lapsed or has been placed on inactive status shall, prior to receiving active status licensure in the practice of veterinary medicine in the state of Iowa, satisfy the requirements in either subrule 6.9(1) or subrule 6.9(2) for renewal of a lapsed or inactive license:

6.9(1) *Renewal of a lapsed or inactive license.* An applicant for renewal of a lapsed or inactive license shall do both of the following:

a. Submit written application for renewal of a lapsed or inactive license to the board upon forms provided by the board;

b. Furnish evidence of compliance with continuing education requirements specified in rule 811—11.3(169).

6.9(2) *Renewal by endorsement.* An applicant for renewal by endorsement may submit an application for renewal by endorsement by following the procedures set out in rule 811—6.5(169).

These rules are intended to implement Iowa Code chapters 17A, 169, and 261.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 7/1/80, Notice 10/31/79—published 7/23/80, effective 8/27/80]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/81]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/25/84]
[Filed 12/1/86, Notice 10/22/86—published 12/17/86, effective 5/1/87]
[Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 1/30/92, Notice 9/18/91—published 2/19/92, effective 3/25/92]
[Filed emergency 3/5/93—published 3/31/93, effective 3/5/93]
[Filed 10/6/94, Notice 7/6/94—published 10/26/94, effective 11/30/94]
[Filed 5/2/96, Notice 3/27/96—published 5/22/96, effective 6/26/96]
[Filed 10/27/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 7
VETERINARY EXAMINATIONS
[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 3]

811—7.1(169) Examination procedure. In order to successfully complete the NAVLE, an applicant shall achieve the minimum passing score as determined by the NBVME. The NAVLE is prepared by the NBVME for use by the board.

7.1(1) Examinations shall be given in April and December each year. The dates for the examination shall be those set by the NBVME. Examinations shall be held at a site to be determined by the NBVME.

7.1(2) Upon request, the NBVME will attempt to provide adequate individualized testing arrangements for applicants who establish the existence of a verified disability including a verified learning disability, consistent with the provisions of the Americans with Disabilities Act of 1990 and regulations promulgated thereunder. Verification may be provided by a testing or evaluation agency approved by the NBVME or by a physician approved by the NBVME.

811—7.2(169) Conduct. The following rules shall govern the conduct of examinations and shall be strictly adhered to throughout the entire examination. An examinee who violates any of the rules, or instructions applicable to them may be declared by the board to have failed the examination.

7.2(1) Unless otherwise notified in writing, applicants must appear at the appointed hour on the first day of examination at the designated site as fixed by the board, at which time the board shall assign each applicant a number for identification purposes during such examination.

7.2(2) The ability of an examinee to read and interpret instructions shall be evaluated and considered by the board as part of the examination.

7.2(3) Any examinee who gives or receives unauthorized assistance in any portion of the examination may be dismissed from the examination.

7.2(4) If the examinee fails the examination and desires to take a subsequent examination, the examinee shall notify the board at least 60 days prior to the first day of the next examination, shall certify that the material statements contained in the original applications are currently true and correct, shall supplement that information as necessary, and shall pay the requisite fee.

These rules are intended to implement Iowa Code chapters 17A and 169.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/8]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/25/84]
[Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed emergency 2/26/91—published 3/20/91, effective 3/1/91]
[Filed 1/30/92, Notice 9/18/91—published 2/19/92, effective 3/25/92]
[Filed 10/6/94, Notice 7/6/94—published 10/26/94, effective 11/30/94]
[Filed 10/27/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 9
TEMPORARY VETERINARY PERMITS

811—9.1(169) Eligibility for a temporary permit.

9.1(1) *Temporary educational permit.* For the purpose of this subrule, "qualified applicant" means a person who is undertaking internship or residency training at Iowa State University College of Veterinary Medicine. A temporary educational permit may be issued upon application to a qualified applicant who does not also seek an Iowa veterinary license. A temporary educational permit allows the permit holder to act as a licensed veterinarian, including for privately owned animals, but only within the scope of the permit holder's internship or residency program at Iowa State University College of Veterinary Medicine. Verification of internship or residency shall consist of an endorsement signed by the dean of the school and submitted directly to the board by the school. A temporary educational permit expires upon termination of the permit holder's internship or residency program, as reported by the dean of the school of veterinary medicine. An initial temporary educational permit may be issued by the board for a term of up to two years. An initial temporary educational permit may be renewed by the board for a term of up to one year. No more than two renewals will be granted to the same person.

9.1(2) *Temporary in-state practice permit.*

a. A temporary in-state practice permit may be issued upon application to a qualified applicant who does not also seek an Iowa license. For the purpose of this subrule, "qualified applicant" means a person who:

(1) Has graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or has received an ECFVG or PAVE certificate.

(2) Is licensed in good standing in another jurisdiction.

(3) For an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1), the applicant:

1. Has successfully completed the National Board Examination (NBE) if the applicant's non-Iowa license was issued between December 31, 1964, and December 31, 1979.

2. Has successfully completed the National Board Examination (NBE) and the Clinical Competency Test (CCT) if the applicant's non-Iowa license was issued between January 1, 1980, and December 31, 2000.

3. Has successfully completed the NAVLE in accordance with rule 811—7.1(169) if the applicant's non-Iowa license was issued on or after January 1, 2001.

b. The temporary permit shall be issued for a period of no more than 180 days, and no more than one permit shall be issued to a person during each calendar year. The temporary in-state practice permit allows the permit holder to act as a licensed veterinarian in this state. A person may not obtain more than three temporary permits.

811—9.2(169) Application.

9.2(1) An application for a temporary permit shall be made on a form provided by the board. The application shall state whether the applicant is applying for a temporary educational permit or a temporary in-state practice permit. The applicant shall provide a statement indicating all jurisdictions in which the applicant is or has ever been licensed to practice veterinary medicine. The applicant shall provide information and shall consent to the release of information to the board from jurisdictions in which the applicant is or has ever been licensed.

9.2(2) The board may require from an applicant or obtain from other sources such other information pertinent to character and education of the applicant as it may deem necessary in order to pass upon the applicant's qualifications.

9.2(3) In the case of an applicant under subrule 9.1(2), the applicant shall provide evidence of approved continuing education totaling at least 60 hours obtained in the previous three years.

9.2(4) The temporary permit fee and the application fee shall accompany the application.

811—9.3(169) Supervision. Rescinded IAB 9/24/08, effective 10/29/08.

811—9.4(169) Practice without benefit of temporary permit or Iowa license. An applicant for a temporary permit or an Iowa license shall not engage in the practice of veterinary medicine unless and until a temporary permit or Iowa license is granted by the board. Prior to the issuance of the temporary permit or Iowa license, an applicant who is otherwise qualified under rule 9.1(169) may perform within the same scope of authority as a licensed veterinary technician, as provided in 811—Chapter 8.

811—9.5(169) Grounds for discipline and disciplinary procedures. A disciplinary action against a permit holder, including grounds for disciplinary action, is governed by 811—Chapter 10. In addition to the applicable grounds set forth in 811—Chapter 10, an applicant for a temporary permit or an Iowa license who engages in the practice of veterinary medicine prior to the issuance of the temporary permit or Iowa license is subject to denial or revocation of the temporary permit, denial or revocation of the Iowa license, and referral for civil or criminal prosecution, at the board's discretion.

These rules are intended to implement Iowa Code chapter 169.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/81]
[Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 1/30/92, Notice 9/18/91—published 2/19/92, effective 3/25/92]
[Filed 10/27/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 10
DISCIPLINE

[Prior to 2/8/89, see Veterinary Medicine, Board of[842] Ch 6]

811—10.1(17A,169,272C) Board authority. The board may discipline any credential holder for any grounds stated in Iowa Code chapters 169 and 272C or rules promulgated thereunder.

811—10.2(17A,169,272C) Complaints and investigations. Complaints are allegations of wrongful acts or omissions relating to the ethical or professional conduct of a credential holder.

10.2(1) In accordance with Iowa Code section 272C.3(1)*"c,"* the board shall investigate or review, upon written complaint or upon its own motion pursuant to other information received by the board, alleged acts or omissions which the board reasonably believes constitute cause for credential holder discipline.

10.2(2) The executive secretary or authorized designee shall investigate complaints in order to determine the probability that a violation of law or rule has occurred.

811—10.3(17A,169,272C) Investigatory subpoena powers. The board shall have the authority to issue an investigatory subpoena in accordance with the provisions of Iowa Code section 17A.13.

10.3(1) A subpoena which requires production of real evidence that is necessary to an investigation may be issued upon the authority of the executive secretary or a designee.

10.3(2) Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within 14 days after the service of the subpoena or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

10.3(3) In the event obedience to a subpoena is refused, the requesting party may petition the district court for enforcement.

811—10.4(17A,169,272C) Board action. The board shall review investigative conclusions and take one of the following actions:

1. Close the investigative case without action.
2. Request further inquiry.
3. Appoint a peer review committee to assist with the investigation.
4. Determine the existence of sufficient probable cause and order a disciplinary hearing to be held in compliance with Iowa Code section 272C.6.

811—10.5(17A,169,272C) Peer review committee. The board may establish a peer review committee to assist with the investigative process when deemed necessary.

10.5(1) The committee shall determine if the conduct of the credential holder conforms to minimum standards of acceptable and prevailing practice of veterinary medicine or other applicable standards and submit a report of its findings to the board.

10.5(2) The board shall review the committee's findings and proceed with action available under rule 10.4(17A,169,272C).

10.5(3) The peer review committee shall observe the confidentiality requirements imposed by Iowa Code section 272C.6.

811—10.6(17A,169,272C) Grounds for discipline. Without regard as to whether the board has determined that an injury has occurred, the board may impose any of the disciplinary sanctions set forth in rule 10.7(17A,169,272C), including civil penalties in an amount not to exceed $10,000, when the board determines that the credential holder is guilty of any of the following acts or offenses:

10.6(1) *Grounds applicable to all credential holders.*

a. Fraud in procuring a credential, which includes but is not limited to an intentional perversion of the truth in making application for a credential to practice any of the professions or activities regulated

by the board in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a credential in this state, or attempting to file or filing with the board or the Iowa department of agriculture and land stewardship any false or forged diploma, certificate, affidavit, identification, or qualification in making an application for a credential in this state.

b. Credential holder professional incompetency. Professional incompetency of a credential holder may be established by:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the credential holder's practice.

(2) A substantial deviation by the credential holder from the standards of learning or skill ordinarily possessed and applied by other credential holders acting in the same or similar circumstances.

(3) A willful or repeated departure from or the failure to conform to the minimal standards of acceptable and prevailing practice of credential holders.

(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public.

1. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, and includes any representation contrary to legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare or may operate to the injury of another.

2. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a credential holder to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent credential holder acting in the same or similar circumstances, including for a veterinarian a violation of the standards of practice as set out in 811—Chapter 12, or when a credential holder is unable to practice with reasonable skill and safety on a client's animals as a result of a mental or physical impairment or chemical abuse.

(5) Habitual intoxication or addiction to the use of drugs, which includes, but is not limited to, the inability of a credential holder to practice with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other types of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other types of material which may impair a credential holder's ability to practice with reasonable skill and safety. The board may require a credential holder's completion of a treatment program as a condition of probation or suspension, and shall consider the credential holder's willingness to complete a treatment program when determining the appropriate degree of disciplinary sanction.

(6) Conviction of a felony which is either of the following:

1. One that is related to the credential holder's profession or occupation; or

2. One that would affect the credential holder's ability to practice within the profession.

Conviction of a felony related to the profession or occupation of the credential holder or the conviction of any felony that would affect the credential holder's ability to practice within the profession includes, but is not limited to, the conviction of a public offense in the practice of the credential holder's profession which is defined or classified as a felony under state or federal law, or violation of a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the credential holder's profession or conviction of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon a credential holder in this state. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

(7) Fraud in representations as to skill or ability, which includes but is not limited to a credential holder's having made misleading, deceptive or untrue representations as to the credential holder's competency to perform professional services for which the credential holder is not qualified to perform by training or experience.

(8) Use of untruthful or improbable statements in advertisements, which includes but is not limited to an action by a credential holder in making information or intention known to the public which is false,

deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but not be limited to:

1. Inflated or unjustified expectations of favorable results;

2. Self-laudatory claims that imply that the credential holder engaged in a field or specialty of practice for which the credential holder is not qualified. A veterinarian is not qualified to claim or imply specialization unless the veterinarian is a member in good standing of the respective specialty board or college recognized by the AVMA;

3. Representations that are likely to cause the average person to misunderstand; or

4. Extravagant claims or claims of extraordinary skills not recognized by the credential holder's profession.

(9) Willful or repeated violations of the provisions of Iowa Code chapters 169 and 272C and rules promulgated thereunder by the board.

(10) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.

(11) Failure to report a license, certificate, permit, or other credential revocation, suspension or other disciplinary action taken by a licensing or regulating authority of another state, territory or country within 30 days of the final action by such licensing or regulating authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

(12) Failure of a credential holder or an applicant for a credential in this state to report, within 30 days, any of the following:

1. Any settlement agreement or voluntary agreement to restrict the practice of veterinary medicine or other applicable activities entered into in another state, district, territory or country; or

2. Any adverse judgment in a malpractice action to which the credential holder is a party; or

3. Any settlement of a claim against the credential holder alleging malpractice.

(13) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

(14) Inability to perform duties for which a credential is required with reasonable skill and safety by reason of a mental or physical impairment.

(15) Violating a lawful order of the board previously entered by the board in a disciplinary hearing.

(16) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a credential for the duration of the credential unless the board orders otherwise.

(17) Knowingly submitting a false report of continuing education or failure to submit the triennial report of continuing education.

(18) Failure to comply with a subpoena issued by the board.

(19) Willful or gross negligence.

(20) Obtaining any fee by fraud or misrepresentation.

(21) Violating any of the grounds for the revocation or suspension of a credential as listed in Iowa Code section 169.13 or these rules.

(22) Noncompliance with the college student aid commission in regard to repayment of student financial aid obligations. The board shall suspend or revoke a credential upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures contained therein, the following shall apply:

1. The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or credential holder may accept service personally or through authorized counsel.

2. The effective date of revocation or suspension of a credential, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the credential holder.

3. The board's executive secretary is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the credential holder that the credential will be suspended, unless the credential is already suspended on other grounds. In the event a credential is under suspension, the executive secretary shall notify the credential holder of the board's intention to revoke the credential.

4. Credential holders shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

5. All board fees required for renewal or reinstatement must be paid by the applicant or credential holder, and all continuing education requirements must be met before a credential will be renewed or reinstated after the board has denied the renewal or reinstatement of a credential pursuant to Iowa Code chapter 261.

6. In the event a credential holder timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the renewal or reinstatement of a credential, the board shall count the number of days before the court action was disposed of by the court.

7. The board shall notify the credential holder in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a credential and shall similarly notify the applicant when the credential is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

(23) Having the person's certificate, license, permit, or other credential revoked or suspended, or having any other disciplinary action taken by a licensing or regulating authority of another state, territory, country, or the United States Department of Agriculture (USDA), or having the veterinarian's USDA accreditation revoked, suspended or other disciplinary action taken against the accreditation. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive evidence of the credential holder's having committed one of the following actions:

1. Permitting or directing any auxiliary personnel or any other person who does not hold the proper credentials to perform veterinary duties involving diagnosis, prescription or surgery, except as allowed pursuant to rule 811—8.5(169);

2. Permitting or directing any auxiliary personnel or any other person to perform any act which would be a legal or ethical violation if committed by a veterinarian;

3. Failing to comply with a lawful child support order as provided in 811—Chapter 13; or

4. Failing to pay any hearing fees and costs within the time specified in the board's decision;

10.6(2) *Grounds applicable to licensed veterinarians only.* In addition to the grounds set out in subrule 10.6(1), without regard as to whether the board has determined that injury has occurred, a licensed veterinarian is subject to disciplinary action for the violation of any of the following:

a. Engaging in unethical conduct which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and which may include acts or offenses in violation of the AVMA Principles of Veterinary Medical Ethics.

b. Engaging in practice harmful or detrimental to the public which includes, but is not limited to, either of the following:

(1) The use of a rubber stamp to affix a signature to a prescription. A licensee who is unable, due to a physical disability, to make a written signature or mark may substitute in lieu of a signature a rubber stamp which is adopted by the disabled person for all purposes requiring a signature and which is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the licensee's presence.

(2) The practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.

c. Willfully or repeatedly departing from, or failing to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12; or committing an act contrary to honesty, justice or good morals, whether the act is committed in the course of practice or otherwise, and whether the act is committed within or without this state, where such act substantially relates to the practice of veterinary medicine. It is not necessary for grounds to exist under this paragraph that actual injury to a patient be established.

d. Indiscriminately or promiscuously prescribing, administering or dispensing any drug; or prescribing, administering or dispensing any drug for other than a lawful purpose.

e. Negligently failing to exercise due care in the delegation of veterinary services to or in supervision of employees or other individuals, whether or not injury results.

811—10.7(17A,169,272C) Sanctions. The board has authority to impose the following disciplinary sanctions:

1. Revoke a credential.
2. Suspend a credential until further order of the board or for a specified period.
3. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
4. Impose a period of probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental examination.
8. Impose civil penalties not to exceed $10,000.
9. Issue a citation and warning.
10. Impose such other sanctions allowed by law as may be appropriate.

811—10.8(17A,169,272C) Panel of specialists. The board may appoint a panel of veterinarians who are specialists to ascertain the facts of a case pursuant to Iowa Code section 272C.6(2). The board chairperson or designee shall appoint the presiding officer.

10.8(1) The executive secretary shall set the date, time, and location of the hearing and make proper notification to all parties.

10.8(2) The panel of specialists shall:

a. Enter into the record the names of the presiding officer, members of the panel, the parties and their representatives.

b. Enter into the record the notice and evidence of service, order for hearing, statement of charges, answer, if available, and any other pleadings, motions or orders.

c. Receive opening statements from the parties.

d. Receive evidence, in accordance with Iowa Code section 17A.14, on behalf of the state of Iowa and on behalf of the credential holder.

e. Question the witnesses.

f. Receive closing statements from the parties.

g. Determine the findings of fact by a majority vote and make a written report of its findings to the board within a reasonable period.

811—10.9(17A,169,272C) Informal settlement. Pursuant to the provisions of Iowa Code sections 17A.12 and 272C.3, the board may consider resolution of disciplinary matters through informal settlement prior to commencement of contested case proceedings. The secretary or designee may negotiate with the credential holder regarding a proposed disposition of the controversy. Upon consent of both parties, the board will review the proposal for action.

811—10.10(17A,169,272C) Voluntary surrender. A voluntary surrender of credentials may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board.

811—10.11(17A,169,272C) Application for reinstatement. A person whose credential has been suspended, revoked, or voluntarily surrendered may apply to the board for reinstatement in accordance with the terms and conditions of the order.

10.11(1) If the credential was voluntarily surrendered, or if the order for suspension or revocation did not establish terms and conditions for reinstatement, an initial application may not be made until one year has elapsed from the date of the order.

10.11(2) The application shall allege facts and circumstances which will enable the board to determine that the basis for the sanction or voluntary surrender no longer exists, and that it is in the public interest to reinstate the credential. The burden of proof to establish these facts shall rest with the petitioner.

10.11(3) The hearing in an application for reinstatement is a contested case within the meaning of Iowa Code section 17A.12.

10.11(4) The order to grant or deny reinstatement shall incorporate findings of fact and conclusions of law. If reinstatement is granted, terms and conditions for reinstating the credential may be imposed.

811—10.12 Reserved.

811—10.13(17A,169,272C) Contested case proceedings. The following rules apply to board activities which are initiated upon determination of probable cause and result in the issuance of a notice of hearing.

811—10.14(17A) Definitions. Except where otherwise specifically defined by law:

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5).

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means, unless another date is specified in the order.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"Presiding officer" means the chairperson of the board or designee.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the board did not preside.

811—10.15(17A) Time requirements.

10.15(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

10.15(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

811—10.16(17A) Notice of hearing. The board shall issue an order, notice of hearing, and statement of charges following its determination of probable cause pursuant to Iowa Code section 17A.12(2). Delivery of the notice of hearing constitutes the commencement of the contested case proceeding.

10.16(1) The date, time, and location of the hearing shall be set by the board. The credential holder shall be notified at least 30 days prior to the scheduled hearing.

10.16(2) Notification shall be in writing delivered either by personal service as in civil actions or by certified mail with return receipt requested. When the credential holder cannot be located:

a. An affidavit shall be prepared outlining the measures taken to attempt service, and shall become a part of the record when a notice cannot be delivered by personal service or certified mail, return receipt requested.

b. Notice of hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the credential

holder. The newspaper will be selected by the secretary or designee. The first notice of hearing shall be published at least 30 days prior to the scheduled hearing.

811—10.17(17A) Presiding officer. Disciplinary hearings shall be conducted by the board pursuant to Iowa Code section 272C.6. The chairperson of the board shall designate the presiding officer in accordance with the provisions of Iowa Code section 17A.11.

10.17(1) For nondisciplinary proceedings, any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing.

10.17(2) The executive secretary may deny the request upon a finding that one or more of the following apply:

a. Neither the agency nor any officer of the agency under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witness is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

h. The request would not conform to the disciplinary hearing provision of Iowa Code section 272C.6.

10.17(3) The agency (or its designee) shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed.

10.17(4) All rulings by an administrative law judge are subject to appeal to the agency. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

10.17(5) Unless otherwise provided by law, the board, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

811—10.18(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the agency in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

811—10.19(17A) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

811—10.20(17A) Disqualification.

10.20(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, secretary or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

10.20(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrules 10.20(3) and 10.32(9).

10.20(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

10.20(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 10.20(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 10.34(17A).

811—10.21(17A) Consolidation—severance.

10.21(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

10.21(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

811—10.22(17A) Pleadings.

10.22(1) Pleadings may be required by rule, by notice of hearing, or by order of the presiding officer.

10.22(2) Petition.

a. Any petition required in a contested case proceeding shall be filed within 20 days of delivery or the notice of hearing or subsequent order of the presiding officer, unless otherwise ordered.

b. A petition shall state in separately numbered paragraphs the following:

(1) The persons or entities on whose behalf the petition is filed;

(2) The particular provision of statutes and rules involved;

(3) The relief demanded and the facts and laws relied upon for such relief; and

(4) The name, address and telephone number of the petitioner and the petitioner's attorney.

10.22(3) Answer. An answer may be filed within 20 days of service of the petition. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

811—10.23(17A) Service and filing of pleadings and other papers.

10.23(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

10.23(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

10.23(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the board.

10.23(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board office, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

10.23(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in the United States mail or state interoffice mail.
>
> (Date) (Signature)

811—10.24(17A) Discovery.

10.24(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

10.24(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 10.24(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

10.24(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

811—10.25(17A) Subpoenas.

10.25(1) *Issuance.*

a. An agency subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

10.25(2) *Motion to quash or modify.* The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

811—10.26(17A) Motions.

10.26(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

10.26(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

10.26(3) The presiding officer may schedule oral argument on any motion.

10.26(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

811—10.27(17A) Prehearing conference.

10.27(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the board office to all parties. For good cause the presiding officer may permit variances from this rule.

10.27(2) Each party shall bring to the prehearing conference:

a. A final list of witnesses the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

10.27(3) In addition to the requirements of subrule 10.27(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters which will expedite the hearing.

10.27(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

811—10.28(17A) Continuances. The executive secretary shall have the authority to grant a continuance after consultation, if needed, with the chairperson of the board.

A request for continuance of a contested case matter must be submitted in writing to the board not later than seven days prior to the scheduled date of the hearing. Exceptions shall be granted at the discretion of the executive secretary only in situations involving extenuating, extraordinary, or emergency circumstances.

811—10.29(17A) Hearing procedures.

10.29(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

10.29(2) All objections shall be timely made and stated on the record.

10.29(3) Parties have the right to participate or be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney or another person authorized by law.

10.29(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

10.29(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

10.29(6) Witnesses may be sequestered during the hearing.

10.29(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

811—10.30(17A) Evidence.

10.30(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

10.30(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts**.**

10.30(3) Evidence in the proceeding shall be confined to those issues to which the parties received notice prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

10.30(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

10.30(5) Any party may object to specific evidence or may request limits on scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

10.30(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If

the excluded evidence consists of a document or exhibit, it shall be marked as part of an order of proof and inserted in the record.

811—10.31(17A) Default.

10.31(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

10.31(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

10.31(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 10.36(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion.

10.31(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

10.31(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

10.31(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

10.31(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 10.34(17A).

811—10.32(17A) Ex parte communication.

10.32(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case, except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 10.20(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

10.32(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

10.32(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

10.32(4) To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall

be provided in compliance with rule 10.23(17A) and may be supplemented by telephone, facsimile, E-mail or other means of notification. Where permitted, oral communications may be initiated through telephone conference call, which includes all parties or their representatives.

10.32(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

10.32(6) The executive secretary or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under subrule 10.20(1) or other law and they comply with subrule 10.32(1).

10.32(7) Communications with the presiding officer involving scheduling or uncontested procedural matters do not require notice or opportunity for parties to participate. A party should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 10.29(17A).

10.32(8) Disclosure of prohibited communications. A presiding officer who received a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

10.32(9) Promptly after being assigned to serve as presiding officer on a hearing panel, as a member of a full board hearing, on an intra-agency appeal, or other basis, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

10.32(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by agency personnel shall be reported to the board's executive secretary for possible sanctions including: censure, suspension, dismissal, or other disciplinary action.

811—10.33(17A) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of such recording, unless otherwise provided by law.

811—10.34(17A) Final decision. When the board presides over reception of the evidence at the hearing, its decision is a final decision.

10.34(1) When a panel of specialists presides over the reception of evidence at the hearing, the findings of fact shall be considered by the board at the earliest feasible time. The decision of the board is a final decision.

10.34(2) A final decision in a contested case proceeding shall be in writing and include findings of fact and conclusions of law, separately stated.

a. Findings of fact shall be accompanied by a concise and explicit statement of underlying facts supporting the findings.

b. The decision shall include an explanation of why the relevant evidence in the record supports each material finding of fact.

c. Conclusions of law shall be supported by cited authority or by a reasoned opinion.

10.34(3) The decision or order shall be promptly delivered to the parties in the manner provided by Iowa Code section 17A.12.

10.34(4) The final decision is a public record pursuant to Iowa Code section 272C.6(4).

811—10.35(17A) Appeals.

10.35(1) *Appeal by party.* Any adversely affected party may appeal a final decision of the board to the district court within 30 days after issuance, in accordance with Iowa Code section 17A.19.

10.35(2) *Review.* The board may initiate review of the decision or order on its own motion at any time within 30 days following the issuance of such a decision.

10.35(3) *Notice of appeal.* An appeal of a decision or order is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

a. The parties initiating the appeal;

b. The proposed decision or order appealed from;

c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

d. The relief sought;

e. The grounds for relief.

10.35(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 15 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

10.35(5) *Scheduling.* The board of veterinary medicine shall issue a schedule for consideration of the appeal.

10.35(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present an oral argument shall be filed with the briefs.

The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

811—10.36(17A) Applications for rehearing.

10.36(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

10.36(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in subrule 10.36(4), the applicant requests an opportunity to submit additional evidence.

10.36(3) *Time of filing.* The application shall be filed with the board office within 20 days after issuance of the final decision.

10.36(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

10.36(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

811—10.37(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

811—10.38(17A) Emergency adjudicative proceedings.

10.38(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, the board may issue a written order in compliance with Iowa Code section 17A.18 to suspend a credential in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

10.38(2) *Issuance.* The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

a. Personal delivery;

b. Certified mail, return receipt requested, to the last address on file with the board;

c. Certified mail to the last address on file with the board;

d. First-class mail to the last address on file with the board; or

e. Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

10.38(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

10.38(4) *Completion of proceedings.* Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

811—10.39(272C) Disciplinary hearing—fees and costs.

10.39(1) *Definitions.* As used in this rule in relation to a formal disciplinary action filed by the board against a credential holder:

"Deposition" means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

"Expenses" means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section

70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

"Medical examination fees" means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a credential holder when the examination or evaluation is conducted pursuant to an order of the board.

"Record" means the proceedings of the hearing including, but not limited to, the transcript and any documentary evidence admitted or offered at the hearing.

"Transcript" means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

"Witness fees" means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purpose of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

10.39(2) *Disciplinary hearing fee.* The board may charge a fee not to exceed the amount authorized in Iowa Code section 272C.6 for conducting a disciplinary hearing which results in disciplinary action taken against the credential holder by the board. An order assessing a fee shall be included as part of the board's final decision. The order shall direct the credential holder to deliver payment directly to the department of agriculture and land stewardship as provided in subrule 10.39(6).

10.39(3) *Recovery of related hearing costs.* The board may also recover from the credential holder the costs for transcripts, witness fees and expenses, depositions, and medical examination fees, if disciplinary action is taken. The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may assess the transcript costs against the credential holder pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board which occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the board appeal process.

b. Witness fees and expenses. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a credential holder the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines currently in effect.

c. Deposition costs. Deposition costs for purposes of allocating costs against a credential holder include only those deposition costs incurred by the state of Iowa. The credential holder is directly responsible for the payment of deposition costs incurred by the credential holder.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition which are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition costs include a reasonable fee for an expert witness. This fee shall not exceed the expert's customary hourly or daily fee, and shall include the time reasonably and necessarily spent in connection with the deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for the deposition.

d. *Medical examination fees.* All costs of physical or mental examinations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the credential holder.

10.39(4) *Certification of reimbursable costs.* Within ten days after conclusion of a contested case hearing and before issuance of any final decision assessing costs, the secretary shall certify any reimbursable costs to the board. The secretary shall calculate the specific costs, certify the costs calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on each party of record at the time of the filing.

10.39(5) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a credential holder shall include the amount of any fee assessed. If the board also assesses costs against the credential holder, the final decision shall include a statement of costs delineating each category of costs and the amount assessed. The board shall specify the time period in which the fees and costs must be paid by the credential holder.

a. A party shall file an objection to any fees or costs imposed in a final decision in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application shall be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculations of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

10.39(6) *Payment of fees and costs.* Payment for fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to the state of Iowa and delivered by the credential holder to the department of agriculture and land stewardship.

10.39(7) *Failure to make payment.* Failure of a credential holder to pay any fees and costs within the time specified in the board's decision shall constitute a violation of an order of the board and shall constitute grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/81]
[Filed emergency 8/14/81—published 9/2/81, effective 8/14/81]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/26/84]
[Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 1/30/92, Notice 9/18/91—published 2/19/92, effective 3/25/92]
[Filed 10/27/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 11
CONTINUING EDUCATION

[Prior to 2/8/89, Veterinary Medicine, Board of(842) Ch 8]

811—11.1(169) Continuing education required for a veterinary licensee.

11.1(1) At least 60 hours of continuing education in courses approved by the board shall be completed within the last three licensing years by each licensee as a condition for license renewal. The licensee has financial responsibility for the cost of continuing education. These credit hours may be obtained by attending board-approved scientific or practice management seminars and meetings on the basis of one credit hour for each hour of attendance. Attendance at any approved national, state or regional meeting or RACE-approved meeting will be acceptable. One hour of credit may be approved for local meetings where a scientific paper is presented. Credit for qualified graduate college courses may be approved on the basis of multiplying each college credit hour by 10, to a maximum of 30 hours during any one triennial license period. A maximum of 20 hours during any one triennial license period of continuing education may be achieved by completion of approved distance education courses. A maximum of 20 hours of continuing education during any one triennial license period may be achieved by completion of approved practice management courses.

11.1(2) Each licensee shall obtain the 60 credit hours between July 1 of the year the license was issued and June 30 of the following third year as a condition precedent to license renewal. Continuing education credits in excess of 60 hours for any three-year license period may be carried over to the next triennial license period, but the total number of credit hours carried over shall not exceed 20 hours.

11.1(3) A recent graduate is exempt from meeting continuing education requirements at the time of original licensure and for the first year of practice. For the purpose of this rule, "recent graduate" means a person who has graduated from an accredited or approved school of veterinary medicine, or received a certificate from the ECFVG or PAVE no more than three years prior to application for licensure. If a recent graduate is licensed during the first year of the triennial license period, the licensee is required to complete 40 hours of continuing education for the first license renewal. If a recent graduate is licensed during the second year of the triennial license period, the licensee is required to complete 20 hours of continuing education for the first license renewal. If a recent graduate is licensed during the third year of the triennial license period, the licensee is exempt from meeting continuing education requirements for the first license renewal.

11.1(4) Completion of the continuing education requirement will be reported to the secretary of the board on a form provided by the board, at the time of license renewal. The form must be signed by the licensee and accompanied by a renewal application and the proper renewal fee.

811—11.2(169) Exemptions for an inactive veterinary licensee. A licensee residing within or outside Iowa who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon paying the annual license renewal fee. The licensee shall provide a written application to the board that includes a statement that the applicant will not engage in the practice of veterinary medicine in Iowa without first complying with all the rules governing reactivation after exemption. The application for a certificate of exemption shall be submitted on a form provided by the board.

811—11.3(169) Reactivation of license. A veterinarian whose license has lapsed or been placed on inactive status shall furnish evidence of completion of a total number of hours of accredited continuing education computed by multiplying 20 by the number of years since the date of the last issuance of the license for which reactivation is sought.

These rules are intended to implement Iowa Code chapters 169 and 272C.

[Filed 3/2/78, Notice 9/21/77—published 3/22/78, effective 4/26/78]
[Filed 8/3/78, Notice 6/28/78—published 8/23/78, effective 9/28/78]
[Filed 4/10/81, Notice 3/4/81—published 4/29/81, effective 6/3/81]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 1/25/84]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 1/30/92, Notice 9/18/91—published 2/19/92, effective 3/25/92]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 12
STANDARDS OF PRACTICE
[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 9]

811—12.1(169) Prescription drugs and restricted immunization products. A drug or immunization product intended for veterinary use where state or federal law restricts this drug or immunizing product to use by or under the order of a licensed veterinarian, shall only be sold or distributed to, or on the order of, a licensed veterinarian, to be used in the course of the veterinarian's professional practice.

12.1(1) The order for all such drugs or immunizing products shall be accompanied by the veterinarian's original prescription which should show the quantity of the product, the number of times the prescription can be refilled, the veterinarian's name, address and telephone.

12.1(2) A prescription veterinary product shall not be deemed to be used "in the course of the veterinarian's professional practice" unless the veterinarian is supervising the use of the product or a veterinarian/client/patient relationship exists.

12.1(3) The board shall determine, on a case-by-case basis, if a veterinarian/client/patient relationship exists. The board may consider, among other items, the following criteria:

a. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and the client (owner or other caretaker) has agreed to follow the instructions of the veterinarian; and when

b. There is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s); or by medically appropriate and timely visits to the premises where the animal(s) is kept; and when

c. The practicing veterinarian is readily available for follow-up in case of adverse reactions of failure of the regimen of therapy.

811—12.2(169) Extra-label use of veterinary drugs and immunization products. Any extra-label use of veterinary drugs and immunization products shall be by or under the order of a licensed veterinarian only and shall be subject to the following criteria:

12.2(1) There shall be a veterinarian-client-patient relationship as defined in subrule 12.1(3).

12.2(2) For drugs used in animals not intended for food, there are no marketed drugs and immunization products specifically labeled for the conditions diagnosed; or in the veterinarian's clinical judgment the labeled dosage is inappropriate for the condition or the extra-label use should result in a better outcome for the patient.

12.2(3) The health of the treated animal(s) is immediately threatened, and suffering or death would result from a failure to treat the affected animal(s).

12.2(4) Appropriate withdrawal times shall be specified when the veterinary products are used in animals intended as food. Extra-label drug use in food-producing animals must follow Food and Drug Administration - Animal Medicinal Drug Use Clarification Act regulations (21 Code of Federal Regulations 530).

811—12.3(169) Prescription labeling and packaging. A licensed veterinarian shall comply with all of the following requirements for the storage, handling, dispensing, and administering of medication:

12.3(1) The veterinarian shall maintain all controlled substances in compliance with state and federal requirements.

12.3(2) All medications that are dispensed from a container other than the original container shall be placed in a child-resistant container unless otherwise requested by the owner or unless the medication is in a form or size that cannot be easily dispensed in a child-resistant container.

12.3(3) All medications dispensed shall be labeled with the following information:

a. Name, telephone number, and address of the veterinary clinic, hospital, or service facility.

b. Name of the prescribing licensed veterinarian.

c. Date on which the prescription is dispensed.

d. Directions for use, including any cautionary statements and withdrawal times when appropriate.

e. Name and species of the patient.

f. Name of the owner.

g. Name, strength, and dosage form of the medication. If the medication is a compounded product, all active ingredients must be listed on the label, with corresponding strengths or concentrations of each ingredient.

h. Number of units dispensed.

i. Expiration date. If the medication is a compounded product with no assigned expiration date, the veterinarian shall determine a beyond-use date as supported by the literature or by the veterinarian's professional judgment when no such supportive information exists.

j. Appropriate withdrawal times, when the animal patient is intended as food.

12.3(4) All medications dispensed in the original container shall retain the original label and, in addition, shall be labeled with the same information as required in subrule 12.3(3).

12.3(5) Medications which have expired shall be removed from current inventory and shall not be dispensed or sold.

12.3(6) Medications shall be dispensed only for specific animals and for specific veterinary medical therapies with the exception of groups of similar animals and other groups such as pet fish, kennels, and catteries for which dispensing shall be done judiciously within a valid veterinarian-client-patient relationship.

These rules are intended to implement Iowa Code chapter 169.

[Filed 9/21/84, Notice 8/15/84—published 10/10/84, effective 11/14/84]
[Filed emergency 9/4/85—published 9/25/85, effective 9/4/85]
[Filed 11/1/85, Notice 9/25/85—published 11/20/85, effective 12/25/85]
[Filed 1/20/89, Notice 11/16/88—published 2/8/89, effective 3/15/89]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 13
CHILD SUPPORT COLLECTION PROCEDURES

811—13.1(169,252J) Licensing actions. In addition to other reasons specified by statute or rule, the board may refuse to issue a credential, or may revoke, suspend, or not renew any credential for which it has jurisdiction if the board is in receipt of a certificate of noncompliance from the child support recovery unit, pursuant to the procedures set forth in Iowa Code chapter 252J.

An applicant or credential holder whose application is denied or whose credential is denied, suspended, or revoked because of receipt by the board of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 811—13.1(169,252J), and procedures specified in 811—Chapter 10 for contesting board actions shall not apply.

811—13.2(169,252J) Child support collection procedures. The following procedures shall apply to actions taken by the board on a certificate of noncompliance pursuant to Iowa Code chapter 252J:

13.2(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or credential holder by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or credential holder may accept service personally or through authorized counsel.

13.2(2) The effective date of revocation or suspension of a credential or the denial of the issuance or renewal of a credential, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the credential holder or applicant.

13.2(3) Applicants and credential holders shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

13.2(4) All board fees for applications, credential renewals or reinstatements must be paid by the applicant or credential holder before a credential will be issued, renewed or reinstated after the board has denied the issuance or renewal of a credential or has suspended or revoked a credential pursuant to Iowa Code chapter 252J.

13.2(5) If an applicant or credential holder timely files a district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a credential, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

These rules are intended to implement Iowa Code chapters169 and 252J.

[Filed 8/9/96, Notice 5/22/96—published 8/28/96, effective 10/2/96]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 14
WAIVER OR VARIANCE OF RULES

811—14.1(17A,169) Definition. For purposes of this chapter, "a waiver or variance" means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

811—14.2(17A,169) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

811—14.3(17A,169) Applicability. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

811—14.4(17A,169) Criteria for waiver or variance. In response to a petition completed pursuant to rule 811—14.6(17A,169), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

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

811—14.5(17A,169) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

14.5(1) *Credential application.* If the petition relates to a credential application, the petition shall be made in accordance with the filing requirements for the credential in question.

14.5(2) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

14.5(3) *Other.* If the petition does not relate to a credential application or a pending contested case, the petition may be submitted to the board's secretary.

811—14.6(17A,169) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 811—14.4(17A,169). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or credential affected by the proposed waiver, including a description of each affected credential

held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or credential within the last five years.

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

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

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

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

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

811—14.7(17A,169) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

811—14.8(17A,169) Notice. The board shall acknowledge a petition upon receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

811—14.9(17A,169) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

811—14.10(17A,169) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

14.10(1) *Board discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

14.10(2) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

14.10(3) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

14.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

14.10(5) *Conditions.* The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

14.10(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right

to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

14.10(7) *Time for ruling.* The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

14.10(8) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

14.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

811—14.11(17A,169) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

811—14.12(17A,169) Summary reports. Semiannually, the board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. In addition, the report shall identify the duration and the expiration date of any waiver granted. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

811—14.13(17A,169) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

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

811—14.14(17A,169) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

811—14.15(17A,169) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

811—14.16(17A,169) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 169.

[Filed 9/12/01, Notice 3/21/01—published 10/3/01, effective 11/7/01]
[Filed 9/4/08, Notices 4/23/08, 6/18/08—published 9/24/08, effective 10/29/08]

WORKFORCE DEVELOPMENT DEPARTMENT[871]

[Prior to 9/24/86, see Employment Security[370], renamed Job Service Division[345]
under the "umbrella" of Department of Employment Services by 1986 Iowa Acts, chapter 1245]
[Prior to 3/12/97, see Job Service Division[345],
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CHAPTER 24
CLAIMS AND BENEFITS

[Prior to 11/17/75, Ch 3]
[Prior to 9/24/86, Employment Security[370]]
[The filed emergency amendments were rescinded and the amendments to Chapter 4 were adopted following Notice, 12/31/86 IAB, effective 2/4/87]
[Prior to 3/12/97, Job Service Division [345] Ch 4]

871—24.1(96) Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

24.1(1) *Additional claim.* An application for determination of eligibility filed on an established claim which follows a period of employment.

24.1(2) *Administrative office (state).* Same as central office.

24.1(3) *Agent state.* The state in which a worker claims benefits against another (liable) state through the facilities of the state employment security agency. See also liable state.

24.1(4) Reserved.

24.1(5) *Annual benefit amount.* See maximum annual benefits under benefits.

24.1(6) *Appeals.* See rule 871—26.1(96).

a. *Administrative appeal.* A request for a review by an appeals authority of a state employment security agency's determination on a claim for benefits, on a status report, or on an employer's contribution rate, or a request for a review by a higher appeals authority of a decision made by a lower appeals authority.

b. *Employment appeal board of the department of inspections and appeals.* The employment appeal board of the department of inspections and appeals is established to hear and decide disputed claims. The employment appeal board of the department of inspections and appeals will consist of three members appointed by the governor with the approval of two-thirds of the members of the senate. One member will represent the general public, one member will represent employers, and one member will represent employees.

This subrule is intended to implement Iowa Code section 96.6(4).

24.1(7) *Applicant.* Any individual applying for work at a workforce development center.

24.1(8) and **24.1(9)** Reserved.

24.1(10) *Average weekly wages.* See wages.

24.1(11) *Base period.* The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or

b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

24.1(12) *Base period employer and chargeable employer.*

a. *Base period employer.* An employer who paid wages for employment to a claimant during the claimant's base period or an employer who is responsible for an individual's wages pursuant to Iowa Code section 96.3, subsection 5, pertaining to workers' compensation benefits.

b. *Chargeable employer.* An employer who had base period wages accruing to the employer's account due to an employer liability determination.

24.1(13) *Benefit amount.*

a. *Maximum weekly benefit amount.* The highest weekly benefit amount provided in a state employment security law.

b. *Minimum weekly benefit amount.* The lowest weekly benefit amount for a week of total unemployment provided in a state employment security law.

c. *Weekly benefit amount.* The full amount of benefits a claimant is entitled to receive for a week of total unemployment.

24.1(14) *Benefit decision.* The decision reached by a lower or higher appeals authority with respect to an appealed claim. See also benefit determination, under determination.

24.1(15) *Benefit determination.* See determination.

24.1(16) *Benefit eligibility conditions.* Statutory requirements which must be satisfied by an individual with respect to each week of unemployment before benefits can be received.

24.1(17) *Benefit formula.* The combination of mathematical factors specified in the state employment security law as the basis for computing an individual's weekly benefit amount and maximum benefit amount.

a. *Annual wage formula.* A benefit formula which uses the claimant's total wages in insured work for a one-year period for computing the claimant's maximum benefit amount.

b. *High quarter formula.* A benefit formula which uses, for determining a claimant's weekly benefit amount, the quarter of the base period in which the claimant's wages in insured work were highest.

24.1(18) *Benefits.* Money payments to an individual with respect to unemployment.

a. *Regular benefits.* Benefits payable to an individual under this or any other state law (including benefits payable to federal civilian employees and ex-servicemembers pursuant to 5 U.S.C., chapter 85) other than extended benefits.

b. *Extended benefits.* Benefits payable to an individual (including benefits payable to federal civilian employees pursuant to 5 U.S.C., chapter 85) for weeks of unemployment which begin in an extended benefit period, which is a period when extended benefits are paid in this state.

24.1(19) *Benefit wages.* See wages.

24.1(20) *Benefit year.* That period to which the limitation of maximum duration of benefits is applicable, a year or approximately a year.

24.1(21) *Benefit year, individual.* The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is usually the Sunday of the current week in which the claimant first files a valid claim unless the claim is backdated as allowed under subrule 24.2(1), paragraph *"h."*

24.1(22) *Calendar week.* See week.

24.1(23) *Central office.* The state administrative office of the division of unemployment insurance services of the department of workforce development.

24.1(24) Reserved.

24.1(25) *Claim.* A request for benefit payment; also used to mean any notice filed by an individual to establish insured status or a notice filed by an individual to inform the administrative agency of the individual's unemployment.

a. A claim may be filed under any one or more of the following programs:

(1) The state program of unemployment insurance (UI),

(2) The federal program of unemployment compensation for federal employees (UCFE) established by Title V of the United States Code, and

(3) The federal program of unemployment compensation for ex-military personnel (UCX) established by Title V of the United States Code.

b. Unless otherwise specified, the term claim as used in the following definitions is applicable equally to each of the three programs.

(1) *Additional UI, UCFE, or UCX claim.* A notice filed at the beginning of a second or subsequent series of claims within a benefit year, when a break in job attachment has occurred since the last claim was filed, concerning which state procedures require that separation information be obtained.

(2) *Additional claim.* An application for determination of eligibility filed on an established claim which follows a period of employment.

(3) *Additional interstate claim.* A claim filed by an interstate claimant within the benefit year of a liable state in which insured status has already been established, after a break in the continuity of filing continued interstate claims, or to establish a new series of claims against that liable state from a new agent state.

(4) *Appealed claim.* See appeal, administrative.

(5) *Combined wage claim.* A claim filed under the interstate wage combining plans. See interstate agreement.

(6) *Compensable claim.* A request for benefit payment which certifies the completion of a week of total or partial unemployment to satisfy a claim benefit for a compensable week.

(7) *Contested claim.* A claim which has been protested by an employer, the department or an interested party regarding the claimant's right to benefits.

(8) *Continued claim.* A continued claim is a request for benefit payment. A continued claim is a compensable claim. It is an electronic, oral or written application which certifies to the completion of a week of total unemployment or partial employment to claim benefits for a compensable week.

(9) *Initial claim.* An application for a determination of eligibility for benefits which determination sets forth the weekly benefit amount and duration of benefits for a benefit year.

(10) *Initial interstate claim.* A new or an additional interstate claim.

(11) *Interstate claim.* A claim filed in one state (agent state) against another state (liable state).

(12) *Intrastate claim.* A claim filed in the state of residence against wages earned in that state or by an interstate commuter.

(13) *Mail claim.* A claim filed by mail.

(14) *New claim.* An application for the establishment of a benefit year.

(15) *New interstate claim.* The first interstate claim filed by a claimant against a liable state which serves as a request for determination of insured status.

(16) *New intrastate extended benefits claim.* The first intrastate claim filed for extended benefits in a new extended benefits period by a claimant in state having extended benefits provisions in its law. Each time such provisions become effective it is considered a new extended benefit period. Such first claims will include those which become effective, without any break in the benefit series, for the week following the week in which regular benefits are exhausted or are terminated by the end of the benefit year.

(17) *New UI, UCFE, or UCX claim.* A request for determination of insured status for purposes of establishing a new benefit year.

(18) *Reopened claim.* The first continued claim in a second or subsequent series of claims in a benefit year when no additional claim is reportable. An application for determination of eligibility for benefits and which certifies to the beginning date of a period of unemployment which falls within a benefit year previously established for which a continued claim or claims may be filed and which follows a break in a claim series previously established, due to illness, disqualification, unavailability, or failure to report for any reason other than reemployment.

(19) *Subsequent benefit year claim.* A new claim with an effective date for a subsequent benefit year which immediately follows the last week of the individual's previous benefit year. The individual is notified by mail of the transition between the benefit years and is requested to provide the department with the information which has changed from the previous benefit year's claim for benefits.

(20) *Transitional claim.* A new claim dated as of any date in the seven-day period immediately following a week benefits were claimed.

(21) *Valid UI, UCFE or UCX claim.* A new claim on which a determination has been made that the individual has met the wage or employment requirements (and, under some laws, other eligibility conditions) to establish a benefit year.

(22) *Voice response continued claim.* Rescinded IAB 8/6/03, effective 9/10/03.

24.1(26) *Claimant.*

a. An individual who has filed a request for determination of insured status or a new claim, or,

b. An individual who has filed an initial claim unless the claim is found to be invalid or the benefit year has expired.

c. Courtesy claimant. See transient claimant.

d. Transient claimant. A transient claimant is defined as one who is moving from place to place and who indicates to the agent-state local office that the stay will be only temporarily in the area served by that office. Unlike a visiting claimant, a transient claimant does not have the intrastate claim forms and instructions from the regular reporting local office. Refer to subrule 24.23(36).

e. Visiting claimant. A visiting claimant is one who has received permission from the regular reporting office to report temporarily to a local office of another state and who has been furnished intrastate claim forms on which to file claims.

24.1(27) Reserved.

24.1(28) *Claim series.* A series of claims filed for continuous weeks of unemployment or for a period of unemployment during which the lapse in compensability or in reporting is deemed by the state insufficient to interrupt the series.

24.1(29) *Compensable claim.* See claim.

24.1(30) *Compensable week.* See week.

24.1(31) *Compensation.* Same as benefits.

24.1(32) *Contested claim.* See claim.

24.1(33) *Continued claim.* See claim.

24.1(34) *Covered employment.* Same as insured work.

24.1(35) *Covered worker.* An individual who has earned wages in insured work.

24.1(36) *Day.* The period of time between any midnight and the midnight following.

24.1(37) *Department.* The chief executive officer of the department of workforce development is the director who shall be appointed by the governor with the approval of two-thirds of the members of the senate. It shall be the duty of the director to administer Iowa Code chapter 96.

24.1(38) *Determination.*

a. *Benefit determination.* A decision with respect to a request for determination of insured status, a notice of unemployment, or a claim for benefits.

b. *Coverage determination.* A determination as to whether an employing unit is a subject employer and whether service performed for it constitutes employment as defined under a state employment security law. See status determination.

c. *Determination of insured status.* A determination as to whether an individual meets the employment requirements necessary for the receipt of benefits; and, if so, such individual's weekly benefit amount and maximum benefit amount.

d. *Initial determination.* The first determination with respect to a claim or a request for determination of insured status.

e. *Monetary determination.* Same as determination of insured status.

f. *Nonmonetary determination.* A determination as to whether a claimant is barred from receiving benefits for reasons other than those affecting the claimant's insured status.

g. *Reconsidered determination.* Same as redetermination.

h. *Redetermination.* A determination made with respect to a claimant after reconsideration by the initial determining authority.

i. *Status determination.* A determination as to whether an employing unit whose status is not known is a subject employer.

24.1(39) *Disqualification provisions.* Those provisions of a state employment security law that set forth the conditions that bar an individual from receiving benefits for a specified period or cancel or reduce the individual's benefits or credits.

24.1(40) *Duration of benefits.* The number of weeks for which benefits are paid or payable for total unemployment in a benefit year. Because there may be deductible wages and other compensation, duration is often described in terms of the total amount of benefits arrived at by multiplying the weekly benefit amount by the number of weeks of total unemployment.

a. Actual duration. The number of full weeks of benefits received by an individual, or the equivalent thereof expressed in terms of dollars.

b. Maximum duration. The highest number of weeks of total unemployment for which benefits are payable to any individual in a benefit year under a state employment security law.

24.1(41) *Earnings limit.* An amount equal to the weekly benefit amount plus $15.

24.1(42) *Eligibility requirements.* Same as benefit eligibility conditions.

24.1(43) *Employment interview.* A conversation between an applicant and an interviewer directed toward obtaining and recording information pertinent to classification and selection, and giving information pertinent to job seeking.

24.1(44) *Employment office.* An office maintained by the department of workforce development in accordance with Iowa Code sections 96.12 and 96.25.

24.1(45) *Employment security administration fund.* See funds.

24.1(46) *Employment security law.* A body of law which establishes a free public employment service, or a system of unemployment insurance, or both and which may also establish other systems compensating for wage loss, such as temporary disability insurance in Iowa Code chapter 96.

24.1(47) *Employment security program.* The federal-state program comprising public employment services and unemployment insurance.

24.1(48) *Fact-finding interview.* A face-to-face or telephonic discussion between interested parties and a department representative for the purpose of obtaining from the claimant a statement containing information on a specific eligibility or disqualification issue. This differs from an eligibility review interview in that a specific issue must exist as a result of a statement made by either the claimant, the liable state, an employer, or the staff of the department.

24.1(49) *First UI, UCFE, or UCX payment.* A payment issued to a claimant for the first compensable week of unemployment in a benefit year.

24.1(50) *Full-time week.* See week.

24.1(51) *Funds.*

a. Administrative funds. Funds made available from federal, state, local and other sources to meet the cost of state employment security administration.

b. Contingency fund. An amount of money appropriated by Congress to meet certain unpredictable increases in costs of administration by the state employment security agencies arising from increases in workload or other specified causes.

c. Special employment security contingency fund. A contingency fund established pursuant to Iowa Code section 96.13(3) into which all interest, fines, and penalties are paid.

d. Employment security administration fund. A special fund in the state treasury, established by state law, in which are deposited moneys granted by the manpower administration and monies from other sources, for the purpose of paying the cost of administering the state employment security program.

e. Title V funds. Funds appropriated by Congress to pay unemployment insurance benefits under Title V of the United States Code to federal, civilian and military employees.

f. Unemployment fund. A special fund established under a state employment security law for the receipt and management of contributions and the payment of unemployment account, clearing account, and unemployment trust fund account.

g. Unemployment trust fund. A fund established in the treasury of the United States which contains all moneys deposited with the treasury by state employment security agencies to the credit of their unemployment fund accounts and by the railroad retirement board to the credit of the railroad unemployment insurance account.

24.1(52) *Handbook.* The handbook for interstate claims-taking provided by the Employment and Training Administration of the United States Department of Labor.

24.1(53) *High quarter formula.* See benefit formula.

24.1(54) to **24.1(56)** Reserved.

24.1(57) *Individual base period.* See base period.

24.1(58) *Individual benefit year.* See benefit year.

24.1(59) *Initial claim.* See claim.

24.1(60) *Initial determination.* See determination.

24.1(61) *Insured unemployment.* Unemployment during a given week for which benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

24.1(62) *Insured work.* Employment, as defined in a state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act.

24.1(63) *Insured worker.* An individual who has had sufficient insured work in such individual's base period to meet the employment requirements for receipt of benefits under a state employment security law.

24.1(64) *Interstate agreement.*

a. *Interstate benefit payment plan.* The plan under which each state acts as an agent for every other state in taking claims for individuals who are not in the state in which they earned their base period wages.

b. *Interstate reciprocal coverage agreement.* An administrative interstate agreement, permitted under most state employment security laws, which provides for the election of coverage of services under specified conditions which may or may not constitute an exception to the mandatory coverage provisions of the state law.

c. *Wage-combining agreements.* An interstate agreement which allows workers who lack qualifying wages in any one state, or who qualify for less than maximum benefits in one or more states, to qualify or to increase benefits by combining wages from all states.

24.1(65) *Interstate claim.* See claim.

24.1(66) *Interstate claimant.* An individual who files a claim for benefits in an agent state on the basis of employment covered by the employment security law of a liable state.

24.1(67) *Benefit rights information.* Information provided to a claimant for the purpose of explaining the claimant's rights and responsibilities under the law. Such information may be given on a group basis or on an individual basis or the information may be provided electronically.

24.1(68) *Office.*

a. *Unemployment insurance service center.* A full-time office staffed with workforce development staff to provide unemployment insurance services to the public.

b. *Workforce development center.* A full-time office staffed with workforce development personnel to provide unemployment insurance or job placement service to the public.

24.1(69) *Lag quarter.* The completed quarter between a claimant's base period and the quarter which includes the beginning date of such claimant's benefit year.

24.1(70) *Layoffs.* See separations.

24.1(71) *Liable state.* Any state against which a worker claims benefits through the facilities of a workforce development center or the job service division of another (agent) state. See also agent state.

24.1(72) *Mail claim.* See continued claims.

24.1(73) *Mass separation.* The separation from a given employing unit of a large number of workers at approximately the same time and for a reason common to all such workers.

24.1(74) *Mass separation notice.* A report of a mass separation sent to the local workforce development center by an employer, stating the number of workers separated and listing their names and other required data. Such a notice serves as a substitute for individual separation notices.

24.1(75) *Maximum benefit amount.* The maximum total amount of benefits an individual may receive during the individual's benefit year.

24.1(76) *Maximum benefits.* The maximum total amount of benefits payable to a claimant during the claimant's benefit year.

24.1(77) *Maximum weekly benefit amount.* See benefit amount.

24.1(78) *Microfiche.* Rescinded IAB 8/6/03, effective 9/10/03.

24.1(79) *Military separations.* See separations.

24.1(80) *Minimum weekly benefit amount.* See benefit amount.

24.1(81) *Month.* The time beginning with any day of one month to the corresponding day of the next month, or if there is no corresponding day, then through the last day of the next month.

24.1(82) *Multistate worker.* An individual who performs service for one employer in more than one state.

24.1(83) *New claim.* See claim.

24.1(84) *Noncovered employment.* Excluded employment, or employment for an employer below the size-of-firm coverage requirements of the state employment security law.

24.1(85) *Notice of separation.* A report submitted by an employer at the time when a worker is separated from employment, on which the employer indicates the dates of the last day worked, the separation date and the reason the worker was separated.

24.1(86) *Odd job earnings.* Any earnings which a claimant may have during a week of unemployment as a result of temporary work with an employing unit other than the claimant's regular employing unit.

24.1(87) *Opening.* A single job for which a workforce development center has on file a request to select and refer an applicant or applicants.

24.1(88) *Outstanding job order request.* An active request for referral of one or more applicants to fill one or more job openings in a single occupational classification; also, the record of such request.

24.1(89) *Clearance order.* Rescinded IAB 8/6/03, effective 9/10/03.

24.1(90) *Partial benefits.* Benefits payable to an individual for a week of partial unemployment.

24.1(91) *Partial earnings allowance.* The amount of earnings that are disregarded in calculating a claimant's benefit for a week.

24.1(92) *Partial unemployment.* See week of unemployment.

24.1(93) *Part-time worker.* A person engaged in, or available only for, part-time work.

24.1(94) *Placement.* An acceptance by an employer of a person for a job as a direct result of workforce development center activities, provided the employment office has completed all of the following four steps: receipt of an order, prior to referral; selection of the person to be referred without designation by the employer of any particular individual or group of individuals; referral; and verification from a reliable source, preferably the employer, that a person referred has been hired by the employer and has entered on the job.

24.1(95) Reserved.

24.1(96) *Qualifying employment.* The amount of insured work which an individual must have had within a specified period in order to be an insured worker. See also benefit eligibility conditions.

24.1(97) *Qualifying wages.* See wages.

24.1(98) *Quits.* See separations.

24.1(99) *Railroad unemployment insurance account.* An account, established pursuant to the Railroad Unemployment Insurance Act, maintained in the federal unemployment trust fund for the payment of benefits provided in that Act.

24.1(100) *Readout.* Printed data from the claimant database or other types of records stored in the computer.

24.1(101) *Reciprocal coverage agreement.* See interstate agreements.

24.1(102) *Reconsidered determination.* Same as redetermination—see determination.

24.1(103) *Referee appeals.* See appeal, administrative. (Administrative law judge)

24.1(104) *Referral.* The act of arranging to bring to the attention of an employer (or another workforce development center) the qualifications of an applicant who is available for a job opening on file for which the applicant has been selected by a workforce development center.

24.1(105) *Registration.* The process of applying for work through an office of the department of workforce development.

24.1(106) *Report to determine liability.* Same as status report.

24.1(107) *Reporting requirements.* The rules of procedures of the department of workforce development concerning the frequency and time of required reporting by claimants.

24.1(108) *Renewal.* The transfer from the inactive to the active file of the application of an applicant who is again considered to be available for referral to job openings.

24.1(109) *Request for determination of insured status.* A request by an individual for a determination of insured status.

24.1(110) *Selection.* The process of choosing a qualified applicant for referral to a job by carefully analyzing and comparing employer requirements with applicant interests and abilities.

24.1(111) *Self-employment.*

24.1(112) *Self-filing (of claim).* The partial or complete filling out of a claim form or request for determination of insured status by the claimant.

24.1(113) *Separations.* All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. *Layoffs.* A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. *Quits.* A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. *Discharge.* A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. *Other separations.* Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

24.1(114) *Short-time placement.* A placement in a job which the employer expects to involve work in each of three days or less, whether or not consecutive.

24.1(115) *Social security number.* The identification number assigned to an individual by the Social Security Administration under the Social Security Act.

24.1(116) *Status determination.* See determination.

24.1(117) *Supplemental benefit payment.* A payment issued for the sole purpose of adjusting an underpayment for one or more previous weeks.

24.1(118) *Taxable wages.* See wages.

24.1(119) *Total unemployment.* See week of unemployment.

24.1(120) Reserved.

24.1(121) *Transient.* A claimant who is moving from place to place and who indicates to the agent-state area claims office that such claimant will be only temporarily in the area served by the area office.

24.1(122) *Unemployment fund.* See funds.

24.1(123) *Unemployment trust fund.* See funds.

24.1(124) *Unemployment trust fund account.* See accounts.

24.1(125) *Valid claim.* See claim.

24.1(126) *Verification.* The determination from a reliable source, preferably the employer, whether an applicant referred by a workforce development center has been hired by the employer and has entered on the job. In the case of applicants referred to seasonal agricultural openings, verification is considered complete when it is confirmed that a referred worker has been hired, even though confirmation of the worker's entry on the job may be lacking.

24.1(127) *Visiting claimant.* A claimant who files claims against such claimant's home state through some extension of that state's intrastate claims procedures.

24.1(128) *Wage combining agreement.* See interstate agreement.

24.1(129) *Wage credits.* Wages earned in insured work.

24.1(130) *Wages.* Average weekly wages.

a. For an individual worker, the result obtained by dividing the individual's total wages in a specified period either by the total number of weeks in the period or by the number of weeks for which wages were payable to the individual during the period.

b. For a group of workers, the result obtained by dividing the total wages for one or more quarters by the number of weeks in the period, and then dividing by the average monthly employment during the period.

24.1(131) *Qualifying wages.* The amount of wages a worker must have earned in insured work within a specified period in order to be an insured worker. See also benefit eligibility conditions.

24.1(132) *Taxable wages.* Wages subject to contribution under a state employment security law, or wages subject to tax under the federal Unemployment Tax Act.

24.1(133) Reserved.

24.1(134) *Weekly indemnity insurance benefits.* Payment for nonoccupational illness or injury pursuant to a benefit plan implemented by an employer.

24.1(135) *Week.* A seven-day period beginning at 12:01 a.m. on Sunday and terminating at midnight on the following Saturday.

a. *Calendar week.* A period of seven consecutive days usually ending at Saturday midnight, used by some state employment security agencies as a unit in the measurement of employment or unemployment.

b. *Compensable week.* A week for which benefits have been claimed.

c. *Full-time week.* The number of hours or days per week currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

24.1(136) *Weekly benefit amount.* See benefit amount, or,

24.1(137) *Weekly benefit amount.* The compensation payable to an individual, with respect to employment, under the employment security law of any state.

24.1(138) *Week of unemployment.* A week in which an individual performs less than full-time work for any employing unit if the wages payable with respect to such week are less than a specified amount (usually the weekly benefit amount), or,

24.1(139) *Week of unemployment.* A week during which an individual performs no work and earns no wages, except as indicated and has earnings which do not exceed the earnings limit.

a. *Week of partial unemployment.* A week in which an individual worked less than the regular full-time hours for such individual's regular employer, because of lack of work, and earned less than the weekly benefit amount (plus the partial earnings allowance, if any, in the state's definition of unemployment) but more than the partial earnings allowance, so that, if eligible for benefits, the claimant received less than such claimant's full weekly benefit amount plus $15.

b. *Week of part total unemployment.* A week of otherwise total unemployment during which an individual has odd jobs or subsidiary work with earnings in excess of the amount specified in the state law as allowable without resulting in a reduction in the individual's benefit payment.

c. *Week of total unemployment.* A week in which an individual performs no work and earns no wages.

24.1(140) *Workload.* The measure of the volume of work for each functional area of the state agency; i.e., the number of contribution (payroll) reports processed, the number of claims taken, the number of applications for employment.

This rule is intended to implement Iowa Code sections 96.3(5), 96.3(7), 96.4(3), 96.5(5)*"c,"* 96.6, 96.7(2)*"a"*(2), 96.11, 96.19(16), and 96.23.

871—24.2(96) Procedures for workers desiring to file a claim for benefits for unemployment insurance.

24.2(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits and register for work.

(1) An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

(2) Reserved.

b. The procedure for filing an initial claim. An individual, following a separation from work, shall report in person at the nearest workforce development center with the individual's social security number, and the individual shall register for work and file a claim for benefits on the Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, prescribed by the department and shall provide, in addition to other requested information, the following information:

(1) The name and complete mailing address of such individual's last employing unit or employer;

(2) The location of the last job;

(3) Last day of work;

(4) The reason for separation from work;

(5) That such individual is unemployed;

(6) That the individual registers for work;

(7) The individual's last job occupation;

(8) Number, name and relationship of any dependents claimed. As used in this subparagraph, "dependent" is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant, stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin.

A "spouse" is defined as an individual who does not earn more than $120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim.

A "dependent" means an individual who has been or could have been claimed for the preceding tax year on the claimant's income tax return or will be claimed for the current income tax year. The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

(9) The option of filing for continued benefits by using the voice response continued claim system or by other means designated by the department.

(10) Such other information as required by the form.

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. The claims taker will then assign a group code to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. The group codes are:

(1) Group "1" claimants are workers who have a definite attachment to a specific employer or trade and have reasonable employment prospects in a reasonable period of time. These claimants will be registered for work.

(2) Group "2" claimants are those individuals who do not otherwise meet the qualification for group "1," "3," "4," "5," or "6" under this section. Group "2" claimants may also include the following: claimants who were employed in demand occupations; irregular employment record (in reference to occupation); delay in claim filing; moved to address remote from labor market or transportation problems; unfavorable job prospects because of recent arrival in locality; farming activities; self-employment assuming otherwise eligible; students or prospective students; pensioners; domestic care or problems; previous fraud or overpayment record; physical impairment or poor health which would limit employability; personal or other restrictions (wages, hours, travel).

(3) Group "3" claimants are workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, of four consecutive weeks or less, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular "employer." This group pertains only to those individuals who worked full-time and will again work full-time if the individual's employment, although temporarily suspended, has not been terminated. After a period of temporary unemployment, claimants in this group are reviewed for placement in group "1," "2," "5" or "6."

(4) Group "4" claimants are those individuals who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job. Group "4" claimants with an individual benefit year starting prior to July 1, 1984, shall be able to work, available for work and have the search for work provisions of Iowa Code section 96.4(3) waived. Group "4" claimants with an individual benefit year starting on or after July 1, 1984, shall have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The group "4" code shall not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(5) Group "5" claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership is acceptable as evidence of membership in such an organization. Loss of membership shall result in an assignment to group "2."

(6) Group "6" claimants are those individuals whose occupations are of a nature that utilize résumés or who are normally unable, due to factors such as occupation, distance, etc., to make in-person contacts for employment.

(7) Nothing in this rule shall be construed as prohibiting an authorized representative of the department from requiring claimants for unemployment insurance benefits to avail themselves of workforce development center referral and counseling services if deemed beneficial and necessary to obtain prompt reemployment, nor shall anything in this rule be construed to deny referral or counseling service to claimants for unemployment insurance benefits.

d. Reserved.

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

f. After the initial claim has been filed, the claimant will receive from the local office or the administrative office a Form 65-5318, which is a notice of the action taken on the claim, and if such claimant is eligible for benefits this notice will state the date on which the benefit year will begin, the amount per week, and the maximum amount for which the claimant is eligible.

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

The individual shall set forth the following:

(1) That the individual continues the claim for benefits;

(2) That except as otherwise indicated, during the period covered by the claim the individual was unemployed, earned no wages and received no benefits, was able to work and available for work;

(3) That the individual indicates the number of employers contacted for work;

(4) That the individual knows the law provides penalties for false statements in connection with the claim;

(5) That the individual has reported any job offer received during the period covered by the claim;

(6) Other information required by the department.

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph *"a"* of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

i. An individual shall be entitled to partial benefits for any week of less than full-time work, provided the wages earned during such week are less than the individual's weekly benefit earning limit, plus $15. If the individual has been placed on reduced employment the individual may be entitled to partial benefits, and should file a claim in accordance with the instructions pertaining to the partial claims procedure.

j. Reserved.

k. Any individual who is disqualified for benefits because of the individual's failure to report as directed to file a claim following the date specified may appeal to the department for the right to establish good cause for failure to report because of extraordinary circumstances. A representative of the department may deny the request and the decision may be appealed to an administrative law judge for a hearing and decision on the merits. If the petition is allowed the petitioner shall be allowed to file a claim for and receive full benefits for each week for which such claim is filed, if otherwise eligible.

24.2(2) Filing a claim for unemployment insurance benefits (not applicable to interstate claims).

a. A notice of claim filing, which includes the name and social security number of the individual claiming benefits, shall be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

b. Even though the claims taker may believe that the claimant cannot meet the eligibility conditions required by statute, the claims taker shall in no instance refuse to accept a claim from any unemployed individual. If the claimant elects to file a claim, even though the claimant's eligibility may be questionable, the claim shall be accepted without hesitance. The claimant must provide adequate proof of identification such as a driver's license, car registration, or union membership card or supply personally identifying information.

c. If a claim was filed in a previous quarter and was determined not eligible because of no wage records, or lack of qualifying earnings, a benefit year has not been established and a new claim will be taken. A new claim should not be taken if the claimant previously has filed an ineligible claim in the same quarter unless the claimant insists on filing after being advised of ineligibility. The claims taker shall explain to the claimant that another claim filed in the same quarter would also be determined as ineligible because additional wage credits (if any) would not be available until a subsequent quarter. The claimant should be advised to file a new claim during the first full week of the next calendar quarter.

d. If the check of the files does not disclose a previous claim and the claimant states that a claim has not been filed during the past year, a new claim shall be taken.

e. Partially unemployed claims.

(1) A partially unemployed individual shall file a claim for benefits in the same manner as an initial claim for unemployment insurance.

(2) Reporting wages. A partially unemployed individual shall report all wages which are earned for each week benefits are claimed.

(3) A claimant in a continuous reporting status, employed with the same employer, may exceed the claimant's weekly benefit amount plus $15 for four consecutive weeks before the individual is required to file an additional claim for benefits.

24.2(3) Filing a claim for unemployment insurance benefits (interstate only).

a. Initial interstate claims. The filing of an initial interstate claim shall conform to all requirements of this rule with the exception of the initial claim form. Both agent and liable states shall use the Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the Interstate Handbook.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.2(4) Cancellation of unemployment insurance claim.

a. A request for cancellation of an unemployment insurance claim may be made by the individual in writing and be directed to the Unemployment Insurance Service Center, Department of Workforce Development, P.O. Box 10332, Des Moines, Iowa 50306. The statement must include the specific reason for the request and contain as much pertinent information as possible so that a decision can be made.

b. A cancellation request which is the result of employer coercion or intimidation shall be denied and the employer could be subjected to serious misdemeanor charges.

c. Cancellation requests within the ten-day protest period. The claims section, upon review of the timely request and before payment is made, may cancel the claim for the following reasons:

(1) The individual found employment or returned to regular employment within the protest period.

(2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.

(3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.

(4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

d. Other valid reasons for cancellation whether or not ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance which was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim must be filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) The Iowa wages are erroneous and are deleted and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

e. If a claim is canceled and becomes final with no appeal being filed, a valid claim with Iowa as the paying state shall not be reestablished with the same effective date.

f. Voiding a claim. If it is determined a claim has been filed under an incorrect social security number, the claim shall be voided rather than canceled.

g. All unemployment insurance claims canceled shall be clearly identified as such and the administrative record of the individual's file shall be destroyed three years after final action.

This rule is intended to implement Iowa Code sections 96.3(3), 96.3(4), 96.4(1), 96.4(3), 96.5(1)*"h,"* 96.5(3), 96.6(1), 96.6(2), 96.15, 96.16, 96.19(4), 96.19(24), and 96.20.

871—24.3(96) Social security number needed for filing.

24.3(1) The claims taker must have the social security number of the claimant. The correct social security number is essential in the processing of the claim. Therefore, if the claimant has a social security card, the number must be taken from that card or be provided by the claimant. If the claimant has two or more social security numbers, the claim shall be held until the claimant ascertains which number is correct.

24.3(2) When a claimant does not have a social security card and no other record of the claimant's social security number is available the claims taker shall advise the claimant that the number may be available from the claimant's employer.

24.3(3) In all such instances, the claims taker shall take the claim and hold it pending receipt of the social security number for a period not to exceed 30 days. If no number is provided by the claimant within 30 days, the claims taker shall submit the claim without a number. Such claims will be determined as ineligible (no wage credits).

24.3(4) and **24.3(5)** Rescinded IAB 8/6/03, effective 9/10/03.

24.3(6) The department will assist the claimant in every reasonable manner so that the claim may be processed in the shortest possible time.

871—24.4(96) Benefit rights information.

24.4(1) *Intrastate benefits.* Benefit rights information is provided to each individual filing an initial claim for benefits to explain those provisions in the law and rules which govern the individual's monetary eligibility, rights and responsibilities under Iowa's unemployment insurance program. The benefit rights information may be given by an individual or group type interview or by telephone or electronically. A Form 70-6200, Facts About Unemployment Insurance, will be provided which explains the individual's rights, benefits, and responsibilities under Iowa's unemployment insurance program.

24.4(2) *Interstate benefits.* Benefit rights information is not required for each individual who files an initial claim for interstate benefits. Claimants will be advised to contact the liable state which will provide additional information explaining the individual's rights, benefits, and responsibilities under the liable state's unemployment insurance program.

24.4(3) *Federal benefits.* Rescinded IAB 8/6/03, effective 9/10/03.

871—24.5(96) Mass separation—definition and procedure.

24.5(1) *Mass separation.* A mass separation is a layoff of all or a large number of workers, either permanently, indefinitely, or for a specific duration by one or more employers in the same area, at approximately the same time, and for the same common reason.

a. The special procedures for mass claim filing may be applied by the department, and the procedures may include taking claims at a designated site or utilizing an electronic mass claim entry form.

b. If other facilities must be obtained for a mass layoff, the order of precedence for obtaining such facilities will be as follows:

(1) Interested employer involved.

(2) Bona fide union which represents the workers.

(3) Public facility (i.e., courthouse, city hall).

24.5(2) *Cooperation of employers.* To enable workforce development centers to make the preliminary arrangements for mass claim taking, the major employers in the area should notify the local office in advance, as soon as they know that a mass separation will take place. The workforce development center shall provide the information to legal counsel for the unemployment insurance services bureau so that the mass claim separation can be coordinated between the affected parties. This information should include:

a. The number of workers to be separated.

b. The date of separation and, if staggered, the number on each date.

c. Reason for layoff.

d. Its probable duration.

e. If recall is anticipated, the date it will begin and, if staggered, the number to be recalled on each date.

f. Rescinded IAB 8/6/03, effective 9/10/03.

g. Reserved.

h. If the layoff is for vacation or inventory purposes, the employer shall follow the vacation pay procedure in rules 24.16(96) and 24.17(96).

24.5(3) *Methods of mass claim taking.* The department may adopt a plan, which is based on the employer's workers, the circumstances and the size of the layoff.

24.5(4) *Announced mass separation.* If a mass separation occurs about which the department of workforce development has not been advised in advance in sufficient time to preschedule claimants, then the claimants will be advised of the alternative methods to file their claims as quickly as possible. The department will develop a plan to provide service to the claimants as quickly as possible under the circumstances.

This rule is intended to implement Iowa Code section 96.6(1).

871—24.6(96) Profiling for reemployment services.

24.6(1) The department of workforce development and the department of economic development will jointly provide a program which consists of profiling claimants and providing reemployment services.

24.6(2) Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

24.6(3) Reemployment services may include, but are not limited to, the following:

a. An assessment of the claimant's aptitude, work history, and interest.

b. Employment counseling regarding reemployment approaches and plans.

c. Job search assistance and job placement services.

d. Labor market information.

e. Job search workshops or job clubs and referrals to employers.

f. Résumé preparation.

g. Other similar services.

24.6(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

24.6(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

24.6(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.

b. Reserved.

This rule is intended to implement Iowa code section 96.4(7).

871—24.7(96) Workers' compensation or indemnity insurance exclusion and substitution.

24.7(1) An individual who has received workers' compensation under Iowa Code chapter 85 during a healing period or temporary total disability benefits or indemnity insurance benefits for an extended period of time and has insufficient wage credits in the base period may qualify for unemployment insurance benefits. Under specific circumstances as described below, the department shall exclude certain quarters in the base period and substitute three or more consecutive calendar quarters immediately preceding the base period which were prior to the workers' compensation or indemnity insurance benefits.

24.7(2) An individual may receive workers' compensation during a healing period or temporary total disability benefits or indemnity insurance benefits until the individual returns to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury.

24.7(3) The department shall make an initial determination of eligibility for unemployment insurance benefits. If the individual has no wage records or lacks qualifying wage requirements, the department shall substitute three or more calendar quarters of the base period with those three or more consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation benefits or indemnity insurance benefits. The qualifying criteria for substituting quarters in the base period are that the individual:

a. Must have received workers' compensation benefits under Iowa Code chapter 85 or indemnity insurance benefits for which an employer is responsible during the excluded quarters, and

b. Did not work in and receive wages from insured work for:

(1) Three or more calendar quarters in the base period, or

(2) Two calendar quarters and lacked qualifying wages from insured work during another quarter of the base period.

24.7(4) Subject to the provisions of subrule 24.7(3), the department shall use the following criteria for allowances and disqualifications.

a. *Allowances.* When the allowance criteria are met, the department shall always exclude and substitute at least three quarters of the base period if the individual received workers' compensation or indemnity insurance benefits in:

(1) Four base period quarters with no earnings in at least two of the quarters and the individual lacks qualifying earnings, the department will exclude and substitute all four quarters of the base period.

(2) Three no earnings base period quarters, with or without earnings in the fourth quarter, the fourth quarter remains in the base period and the department will exclude and substitute only three quarters in the base period.

b. *Disqualifications.* The request for retroactive substitution of base period quarters shall be denied if the individual received workers' compensation or indemnity insurance benefits in:

(1) At least three base period quarters but the individual is currently monetarily eligible with an established weekly and maximum benefit amount.

(2) At least three base period quarters and the individual has base period wages in three or more of the base period quarters, but the claim lacks qualifying earnings.

(3) Less than three base period quarters.

24.7(5) The individual shall be requested to complete the Affidavit and Questionnaire, Form 60-0286, which requests the following information:

a. Individual's name and social security number.

b. Name of employer responsible for the workers' compensation benefits or the indemnity insurance benefits.

c. Names of employers and periods worked for the period preceding the workers' compensation or the indemnity insurance pay period.

d. Name of the workers' compensation or indemnity insurance carrier or, if self-insured, the name of the employer.

e. Specify whether the wages determined to be in the individual's base period were or were not received for working in insured work during the base period.

24.7(6) The department will mail the redetermined initial claim to the individual. When the claim for benefits is determined to be monetarily eligible for payment, the employer responsible for the workers' compensation or the indemnity insurance benefits shall be notified of the redetermination and shall be responsible for the charges on the redetermined claim which are solely due to wage credits considered to be in the individual's base period due to the exclusion and substitution of calendar quarters. The employer responsible for the workers' compensation or indemnity insurance benefits shall have the right to protest as provided in rule 24.8(96).

871—24.8(96) Notifying employing units of claims filed, requests for wage and separation information, and decisions made.

24.8(1) Mailing of a notice of the filing of an initial claim or a request for wage and separation information to employing units.

a. The Form 65-5317, Notice of Claim, and the Form 68-0221, Request for Wage and Separation Information, shall be addressed to:

(1) The address or addresses as requested by the employing unit and agreed to by the department; or

(2) The business office of the employing unit where the records of the individual's employment are maintained; or

(3) The employing unit's place of business where the individual claiming benefits was most recently employed.

b. A notice of the filing of an initial claim or a request for wage and separation information shall be mailed to an owner, partner, executive officer, departmental manager or other responsible employee of the employing unit or to an agent designated to represent the employing unit in unemployment insurance matters.

(1) An agent who has been authorized to represent an employing unit in unemployment insurance matters may be furnished information from the files of the department to the extent designated in the authorization and in the same manner and to the same extent that the information would be furnished to the employing unit.

(2) The appointment of an agent to act for the employing unit and to receive documents and reports in no way abrogates the right of department representatives to deal directly with the employing unit when it appears that this will best serve the interest of the parties.

24.8(2) Responding by employing units to a notice of the filing of an initial claim or a request for wage and separation information and protesting the payment of benefits.

a. The employing unit which receives a Form 65-5317, Notice of Claim, or a Form 68-0221, Request for Wage and Separation Information, must, within ten days of the date of the notice or request, submit to the department wage or separation information that affects the individual's rights to benefits, including any facts which disclose that the individual separated from employment voluntarily and without good cause attributable to the employer or was discharged for misconduct in connection with employment.

b. The employing unit may protest the payment of benefits if the protest is postmarked within ten days of the date of the notice of the filing of an initial claim. In the event that the tenth day falls on a

Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If the employing unit has filed a timely report of facts that might adversely affect the individual's benefit rights, the report shall be considered as a protest to the payment of benefits.

c. If the employing unit protests that the individual was not an employee and it is subsequently determined that the individual's name was changed, the employing unit shall be deemed to have not been properly notified and the employing unit shall again be provided the opportunity to respond to the notice of the filing of the initial claim.

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be made by mail using Form 60-0154, Notice of Separation, or by telephone using a telephone number designated by the department.

(1) The Notice of Separation, Form 60-0154, must be postmarked or received before or within ten days of the date that the Notice of Claim, Form 65-5317, was mailed to the employer. In the event that the tenth day falls on Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If a claim for unemployment insurance benefits has not been filed, the Notice of Separation may be accepted at any time.

(2) Rescinded IAB 2/10/99, effective 3/17/99.

24.8(3) Completing and signing of forms by an employing unit which may affect the benefit rights of an individual.

a. A notice of separation, and any response by an employing unit or its authorized agent to a notice of the filing of an initial claim or a request for wage and separation information, shall be accomplished by properly completing the form or computerized format provided by the department.

b. A notice of separation, and any paper response by an employing unit or its authorized agent to a notice of the filing of an initial claim or a request for wage and separation information, shall be executed by the employing unit on the form provided by the department under the signature of an individual proprietor, a partner, an executive officer, a department manager or other responsible employee who handles employee information, or who has direct knowledge of the reasons for the individual's separation from employment or by completing the computerized form designated by the department.

c. Failure by an employing unit or its authorized agent to properly complete or sign any form provided by the department relating to the adjudication of a claim shall result in the return of the form to the employing unit or its authorized agent for proper completion or signature; however, an extension of any notice or response period to allow for the return of the form shall not be granted.

d. Failure by an employing unit or its authorized agent to timely submit any notice or response requested by the department shall result in the department representative's making a determination of the individual's rights to benefits based on the information available.

24.8(4) Mailing of determinations, redeterminations and decisions to employing units.

a. An employing unit which has filed a timely response or protest to the notice of the filing of an initial claim shall be notified in writing of the determination as to the individual's rights to benefits. If an employing unit of the individual has submitted timely information affecting the individual's rights to benefits, including facts which disclose that the individual voluntarily quit without good cause attributable to the employing unit or was discharged for misconduct in connection with employment, the employing unit shall be notified in writing of the department's decision as to the cause of termination of the individual's employment.

b. Any notice of determination or decision shall contain a statement setting forth the employing unit's right of appeal.

c. Determinations as to an individual's right to benefits, decisions as to the cause of termination of the individual's employment, decisions as to an employing unit's experience record and correspondence related thereto shall be sent to:

(1) The address of the employing unit to which the notice of the filing of an initial claim was mailed; or

(2) The address requested by the employing unit on the document filed with the department in response or protest to the notice of the filing of an initial claim;

(3) If the employing unit in its response or protest to the notice of the filing of an initial claim furnishes the address of an agent for the employing unit and requests that further documents and correspondence be sent to the agent, the department representative shall comply, provided there is on file with the department an approved authorization (power of attorney) designating the agent to represent the employing unit.

871—24.9(96) Determination of benefit rights.

24.9(1) *Monetary determinations.*

a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65-5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

c. If newly discovered facts are obtained by the department or a written request for reconsideration is filed by the individual and is timely, an unemployment insurance representative shall examine the facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the monetary record shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual within ten days of the date of the mailing of the redetermination specifying the grounds of objection to the redetermined monetary record. For the purposes of this paragraph, if the newly discovered facts obtained by the department would result in a change of the individual's maximum benefit amount of $25 or less, the department representative is not required to issue a redetermination unless a redetermination is requested by the individual, the employer, or a representative of another state or federal agency responsible for the administration of an unemployment insurance law.

d. For the purposes of this subrule, the appeal period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday, or holiday. Also, failure of an individual to properly complete and sign any document relating to the adjudication of a claim shall result in the return of the document to the individual for proper completion or signature; however, an extension of the appeal period to allow for the return of the documents shall not be granted.

24.9(2) *Nonmonetary determinations.*

a. When a protest of an initial claim for benefits is filed, the department shall mail to the individual claiming benefits, and the most recent or any other base period employing unit, either a Form 60-0186 (manually generated) or a Form 65-5323 (computer generated), Unemployment Insurance Decision, which affects the individual's right to benefits.

b. The interested parties shall be afforded the opportunity to present facts and evidence in person or by telephone at an informational fact-finding interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may tape (video or audio) the proceedings. All participants must be informed of the taping of the interview. The taping of the interview must not be disruptive or distracting in nature.

c. Each of these decisions of the unemployment insurance representative shall constitute a final decision unless there are newly discovered facts which affect the validity of the original decision or a written request for reconsideration is filed by the individual, or the most recent or any other base period employing unit, within ten days of the date of the mailing of the decision specifying the grounds of objection to the decision.

d. If newly discovered facts are obtained by the department or a written request for reconsideration is timely filed by the individual, or the most recent or any other base period employing unit, an unemployment insurance representative shall examine the newly discovered facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the decision shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual, or the most recent or any other

base period employing unit, within ten days of the date of the mailing of the redetermination specifying the grounds for objection to the redetermined decision.

e. For the purposes of this subrule, the protest period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday or holiday. Also, failure by an individual or an employing unit to properly complete or sign any document relating to the adjudication of a claim shall result in the return of the document to the individual or employing unit for proper completion or signature; however, an extension of the protest period to allow for the return of the document shall not be granted.

871—24.10(96) Employer and employer representative participation in fact-finding interviews.

24.10(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

24.10(2) "A continuous pattern of nonparticipation in the initial determination to award benefits," pursuant to Iowa Code section 96.6, subsection 2, as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter beginning with the first calendar quarter of 2009, the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator shall notify the employer's representative in writing after each such appeal.

24.10(3) If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6, subsection 2, has engaged in a continuous pattern of nonparticipation, the division administrator shall suspend said representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on the third or subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

24.10(4) "Fraud or willful misrepresentation by the individual," as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

This rule is intended to implement Iowa Code section 96.3(7)"b" as amended by 2008 Iowa Acts, Senate File 2160.

871—24.11(96) Eligibility review program.

24.11(1) *Purpose.* The eligibility review program is used to accelerate the individual's return to work and systematically review the individual's efforts toward the same goal.

24.11(2) *Individuals requiring an eligibility review.*

a. Selected individuals claiming intrastate benefits and interstate benefits shall be required to complete the eligibility review Form 60-0232 at times determined by the department after they have filed an initial or additional claim.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(3) *Eligibility review form.* Form 60-0232 contains information relating to eligibility and availability furnished by and to the individual, instructions and advice on reemployment that is given to the individual and the results of the individual's job search efforts.

a. The Eligibility Review Form 60-0232 encourages individuals to record information that bears directly on reemployment prospects and continued eligibility data.

b. It should conserve benefit funds through early identification of individuals who are restricting their availability.

c. It assures that job-ready individuals receive maximum exposure to available jobs by a workforce development center.

24.11(4) *Eligibility review procedure.*

a. After an individual has claimed a number of weeks of intrastate benefits as designated by the department, the workforce development center shall receive a computer selected list of individuals claiming benefits. The list shall be retained in the workforce development center so work search assistance and reemployment services can be provided as needed by the claimant.

b. No eligibility review will be performed on an individual unless monetary and nonmonetary eligibility are established.

c. An Eligibility Review Questionnaire shall be mailed or provided to the individual.

d. A copy of the Eligibility Review Questionnaire shall be sent to the workforce development center only on an individual who is in an active status at the time of its printing. If the individual fails to respond to the Eligibility Review Questionnaire within the designated period of time printed on the questionnaire, the workforce development center shall issue a Form 60-0131, Notice to Report. If the individual does not respond after this action has been taken, the department must issue an appropriate failure to report decision and lock the claim to prevent payment.

e. In cases of illness, injury or pregnancy, an unemployment insurance representative shall determine when and if a personal appearance shall be conducted. The representative shall be responsible for determining continuing eligibility or noneligibility of the individual based on the information obtained on the Form 60-0141, Request for Medical Report, or the facts presented during the interview. If the representative believes an additional Form 60-0141 may be needed, the representative shall initiate the request in the regular manner. Special attention shall be given to work search, i.e., number of contacts, types of contacts and the available job market information.

f. Before an administrative law judge can rule on a disqualification for failure to report at an Iowa workforce development center as directed, there must be evidence to show that the individual was required to report for an interview.

g. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(5) *Scheduling first eligibility review interview.* Individuals shall be scheduled for an eligibility review interview if:

They are in demand occupations and still unemployed; it appears that they need help in finding work or their eligibility is suspect.

24.11(6) *Eligibility Review Form 60-0232.*

a. The Eligibility Review Form shall be completed by the individual. This form documents the information provided by the individual. The unemployment insurance representative reviews the information to determine if there are any disqualifying issues that need to be reviewed by conducting an interview in the local office or by telephone. If the interview is conducted by telephone, the individual may waive the opportunity for an in-person interview. The form also contains the individual's work

search plan and the unemployment insurance representative's advice and instruction to the individual concerning eligibility requirements and work search plans.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(7) *Conducting the first eligibility review interview.*

a. All available evidence must be examined to detect potentially disqualifying issues.

b. The individual's need for advice, assistance or instructions must be determined and conveyed to the individual.

c. The interview as recorded on the form must convey to the individual the requirements that must be satisfied to maintain eligibility insofar as work search and availability are concerned.

d. This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment which otherwise would result in referral for adjudication.

e. The individual shall be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy considering local labor market information and the individual's occupation.

f. The final objective of the interview is to determine whether a subsequent interview is needed. This shall be based on expected return to work date, job openings in area, local labor market conditions, etc.

24.11(8) *Eligibility Review Statistics, Form 68-0150.* Rescinded IAB 8/6/03, effective 9/10/03.

This rule is intended to implement Iowa Code sections 96.4(3) and 96.6(1).

871—24.12 Reserved.

871—24.13(96) Deductible and nondeductible payments.

24.13(1) *Procedures for deducting payments from benefits.* Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits shall be deducted from benefits in accordance with the following procedures until the amount is exhausted; however, vacation pay which is deductible in the manner prescribed in rule 24.16(96) shall be deducted first when paid in conjunction with other deductible payments described in this rule unless otherwise designated by the employer: The individual claiming benefits is required to designate the last day paid which may indicate payments made under this rule. The employer is required to designate on the Form 65-5317, Notice of Claim, the amount of the payment and the period to which the amount applies. If the individual or the employer does not designate the period to which the amount of the payment applies, and the unemployment insurance representative cannot otherwise determine the period, the unemployment insurance representative shall determine the week or weeks following the effective date of the claim to which the amount of the payment applies by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The amount of any payment under subrule 24.13(2) shall be deducted from the individual's weekly benefit amount on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96). The amount of any payment under subrule 24.13(3) shall be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

24.13(2) *Deductible payments from benefits.* The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96):

a. *Holiday pay.* However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

b. *Commissions.* However, the commission payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

c. *Incentive pay.* However, the incentive payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

d. *Strike pay.* However, the strike pay is only deductible when it is a payment received for services rendered and the individual is otherwise eligible for benefits.

e. *Remuneration other than cash.* The cash value of all remuneration payable in any medium other than cash, board, rent, housing, lodging, meals, or similar advantage, is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

f. *Stand-by pay.* When an individual is paid to hold oneself in readiness for a call to specific work for an employer but is not called, since the work is given to another, the payment is stand-by pay which is deductible from benefits when earned by the individual during the period when the individual is claiming benefits.

g. *Tips or gratuity.* However, the amount of the tips or gratuity is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

24.13(3) *Fully deductible payments from benefits.* The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

a. Wage interruption insurance payment. Any insurance payment received or due from wage interruption insurance because of fire, disaster, etc.

b. Excused personal leave. Excused personal leave, also referred to as casual pay or random pay, is personal leave with pay granted to an employee for absence from the job because of personal reasons. It shall be fully deductible only when taken in conjunction with a scheduled period of vacation in which case it shall be treated as vacation and be fully deductible in the manner prescribed in rule 24.16(96).

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

d. Workers' compensation, temporary disability only. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

e. Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced by that portion of the payment which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

24.13(4) *Nondeductible payments from benefits.* The following payments are not considered as wages and are not deductible from benefits:

a. Self-employment income. However, the individual must meet the benefit eligibility requirements of Iowa Code section 96.4(3).

b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

c. Remuneration for work performed by the individual claiming benefits in exchange for county relief in the form of groceries, rent, etc.

d. Payment for unused sick leave.

e. National guard duty pay. This includes reserve unit drill pay for any branch of the armed service.

f. Supplemental unemployment benefit plans approved by the department. See 871—subrule 23.3(1), paragraph *"e,"* for criteria and employer procedure for obtaining department approval.

g. Pension to the blind.

h. Payment for terminal leave. Any payment received by military personnel for unused leave upon discharge.

i. Compensation for military service-connected disability from the Department of Veterans Affairs.

j. Payments to the surviving spouse of a regular or disability pension based on the work of the deceased spouse.

k. Deferred wage compensation. Remuneration received by the individual for wages earned in a period prior to the individual's claim for benefits shall not be deductible during the period in which the individual is claiming benefits.

l. Witness and jury fees. These fees are reimbursement for expenses and are not considered as wages.

m. Supplemental security income. This payment is nondeductible because it is financed by income taxes and not social security taxes and is based on need factors such as age, mental or physical disability, and personal income, and not on previous employment.

n. Federal social security benefit and social security disability payments.

This rule is intended to implement Iowa Code sections 96.3(3), 96.5, 96.5(5), 96.11(1), and 96.19(38).

871—24.14 and **24.15** Reserved.

871—24.16(96) Vacation pay.

24.16(1) If the employer properly notifies the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted.

24.16(2) If the employer makes the original designation of the vacation period in a timely manner, the employer may extend the vacation period by designating the period of the extension in writing to the department before the period of extension begins.

24.16(3) If the employer fails to properly notify the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, the entire amount of the vacation pay shall be applied to the one-week period starting on the first workday following the last day worked as defined in subrule 24.16(4). However, if the individual does not claim benefits after layoff during the normal employer workweek immediately following the last day worked, then the entire amount of the vacation pay shall not be deducted from any week of benefits.

24.16(4) Unless otherwise specified by the employer, the amount of the vacation pay shall be converted by the department to eight hours for a normal workday and five workdays for a normal workweek.

This rule is intended to implement Iowa Code section 96.5(7).

871—24.17(96) Vacation pay procedure.

24.17(1) Employer notice specified vacation or holiday pay only. The Form 65-5317, Notice of Claim, the Form 62-2048, Request for Federal Wage and Separation Information, and the Form 62-2049, Request for Wage and Separation Information on Federal Employment Additional Claim, which are returned by the employer for the purpose of notification of vacation pay, shall be used as notification to the department that vacation pay is applicable. The Forms 65-5317, 62-2048, and the 62-2049 received in the administrative office shall be routed to the appropriate office for the following action:

a. Upon receipt of the vacation information, the unemployment insurance representative shall immediately issue the appropriate decision concerning the vacation pay to the employer and to the claimant. The unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.

b. The representative shall compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies, the representative shall initiate immediate action to set up an overpayment or underpayment as appropriate.

c. If the computer record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation period, the unemployment insurance representative shall take no further action on the weeks not claimed.

d. The claimant shall be instructed to only report vacation pay applicable to the first week. The claimant shall also be instructed that vacation pay designated by the employer in excess of one week may result in an overpayment of benefits.

24.17(2) Reserved.

This rule is intended to implement Iowa Code section 96.5(7).

871—24.18(96) Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus $15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus $15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the nearest dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code sections 96.3, 96.4 and 96.19(38).

871—24.19(96) Determination and review of benefit rights.

24.19(1) Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. Such notice to the claimant shall advise of the weekly benefit amount, duration of benefits, wage records, other data pertinent to benefit rights, and if disqualified, the time of and reason for such disqualification. If a claimant is ineligible, such claimant shall be advised of such ineligibility and the reason therefor. Each notice of benefit determination which the department is required to furnish to the claimant shall, in addition to stating the decision and its reasons, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any such other party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

24.19(2) Each interested party will be afforded the opportunity to have an in-person fact-finding interview regarding matters which are scheduled for a hearing. However, when it is impractical for the department to conduct an in-person fact-finding, the fact-finding may be conducted in whole or in part by telephone at the discretion of the department. The department shall reserve the right to call any interested party in for an in-person fact-finding interview.

24.19(3) Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the claims section may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. The claimant or any other party filing the request for review shall be promptly notified of the decision or referral. Unless the claimant or any other party files an appeal within ten days after the date of mailing, the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

871—24.20 and **24.21** Reserved.

871—24.22(96) Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

24.22(1) *Able to work.* An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable,

gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

24.22(2) *Available for work.* The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

a. *Shift restriction.* The individual does not have to be available for a particular shift. If an individual is available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

b. *Job test.* The best method of testing availability for work is an offer of work or job test. If a job test is not possible because of lack of a suitable offer, the active search for work is relied on and conclusions are likely to be based entirely on the fact that the individual did or did not make a search, without regard to the fact that the individual's personal efforts had little probability of success.

c. *Intermittent employment.* An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

d. *Jury duty.* The individual is considered available for work while serving on jury duty because time spent in jury service is not a personal service performed under a contract of hire in an employment situation but is a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual full-time. Witness and jury fees will be considered as reimbursement for expenses and not as wages.

e. *Company employment office.* The department is not bound by a union/company contract that requires the individual to report at the company employment office. The individual is an independent agent seeking work, and may be found available, if an otherwise diligent search of work is made.

f. *Part-time worker, student—other.* Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment during the same hours and for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

g. *Work release program while incarcerated.* For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of Iowa Code section 96.4(3); but the department will review any situation concerning an individual incarcerated in a jail, who can meet the able to work, availability for work, and actively seeking work requirements of Iowa Code section 96.4(3).

h. *Available for part of week.* Each case must be decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

i. *On-call workers.*

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and must be determined on an individual case basis. The substitute teacher is considered an instructional

employee and is subject to the same limitations as other instructional employees. As far as payment of benefits between contracts or terms and during customary and established periods of holiday recesses is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. An on-call worker (includes a substitute teacher) is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38)*"a"* and *"b."* An individual who is willing to accept only on-call work is not considered to be available for work.

j. *Leave of absence.* A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

k. *Effect of religious convictions on Sabbath day work.* An individual is considered as available for work if the precepts of the individual's religion prohibit work on the Sabbath. An individual who refuses to work on the Sabbath designated by the individual's religion, because of conscientious observance of the Sabbath as a matter of religious conviction, is also deemed to have good cause for refusing the work.

l. *Available for work.* To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist, or if that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

m. *Restrictions and reasonable expectation of securing employment.* An individual may not be eligible for benefits if the individual has imposed restrictions which leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, location of work, etc., or may be physical restrictions.

n. *Corporate officers.* To be considered available, the corporation officer must meet the same tests of availability as are met by other individuals. The individual must be desirous of other work, be free from serious limitations and be seriously searching for work. The reported efforts of a corporate officer to seek work should be studied to distinguish those directed toward obtaining work for the officer as an individual and those directed to obtaining work or business for the corporation. Any effort to obtain business for the corporation to perform is a service to the corporation and is not evidence of the individual's own availability for work.

o. *Lawfully authorized work.* An individual who is not lawfully authorized to work within the United States will be considered not available for work.

24.22(3) *Earnestly and actively seeking work.* Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual

as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

a. Basic requirements. An individual shall be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The circumstances in each case are considered in determining whether an earnest and active search for work has been made. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for work if found by the department to constitute a reasonable means of securing work by the individual, under the facts and circumstances of the individual's particular situation:

(1) Making application with employers as may reasonably be expected to have openings suitable to the individual.

(2) Registering with a placement facility of a school, college, or university if one is available in the individual's occupation or profession.

(3) Making application or taking examination for openings in the civil service of a governmental entity with reasonable prospects of suitable work for the individual.

(4) Responding to appropriate "want ads" for work which appears suitable to the individual if the response is made in writing or in person or electronically.

(5) Any other action which the department finds to constitute an effective means of securing work suitable to the individual.

(6) No individual, however, is denied benefits solely on the ground that the individual has failed or refused to register with a private employment agency or at any other placement facility which charges the job-seeker a fee for its services. However, an individual may count as one of the work contacts required for the week an in-person contact with a private employment agency.

(7) An individual is considered to have failed to make an effort to secure work if the department finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

b. Number of employer contacts. It is difficult to determine criteria in which earnestly and actively may be interpreted. Much depends on the estimate of employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunities might be totally unacceptable in another area of unlimited opportunities. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in the individual's characteristics, job prospects in the community, and other factors as the department deems necessary.

c. Union and professional employees. Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, individuals must also actively search for work; mere registration at a union or reporting to union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and additional work contacts must be made.

d. Week-to-week disqualification. Active search for work disqualifications are to be made on a week-to-week basis and are not open-end disqualifications.

e. Seniority rights. An individual who fails to exercise seniority rights to replace another employee with less seniority has the work search requirement waived during a period of regular benefits. This waiver does not apply to the individual who is receiving extended benefits or similar federal program benefits.

f. Search for work.

(1) The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant.

(2) The individual is referred to suitable work, when possible, to those employers who have outstanding requests with the department of workforce development for referrals. The individual must meet the minimum lawful requirements of the employer. The individual applies to and obtains the signatures of the employer so designated on the form provided, unless the employer refuses to sign the form. The individual must return the form to the department as directed. The individual's failure to obtain the signature of designated employers, who have not refused to sign the form, disqualifies the individual from future benefits until requalified by earning ten times the weekly benefit amount.

(3) The group assignment of individuals is used, to a certain extent, in determining which ones are required to make personal applications for work. Other factors, however, such as the condition of the local labor market, the duration of benefit payments, and a change in claimant characteristics, are also taken into consideration on a weekly basis.

(4) Individuals receiving partial benefits are exempt from making personal applications for work, in any week they have worked and received wages from their regular employer. Individuals involved in hiring hall practices must keep in weekly touch with the business agent of that union in which they maintain membership. All other individuals must make contacts with such frequency as the department considers advisable, after considering job prospects in the community, the condition of the labor market and any other factors which may have a bearing on the individual's reemployment. A sincere effort must be made to find a job. A contact made merely for the sake of complying with the law is not good enough.

g. Reverse referral. A reverse referral is defined as an employer hiring only through the department of workforce development and all individuals applying for employment with the employer are referred to the department. An individual may use the department as work contacts during a week with the employer's name and the workforce development employee's name listed as the individual contacted. The workforce development center must be contacted in person by the individual to utilize each reverse referral registration job contact.

h. Job search assistance. Job search assistance classes, including reemployment services, which are sponsored by the department of workforce development and attended by the individual during a week may be counted as one of the individual's work search contacts for that week.

This rule is intended to implement Iowa Code section 96.4(3).

871—24.23(96) Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

24.23(1) An individual who is ill and presently not able to perform work due to illness.

24.23(2) An individual presently in the hospital is deemed not to meet the availability requirements of Iowa Code section 96.4(3) and benefits will be denied until a change in status and the individual can meet the eligibility requirements. Such individual must renew the claim at once if unemployed.

24.23(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

24.23(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

24.23(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

24.23(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

24.23(7) Where an individual devotes time and effort to becoming self-employed.

24.23(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

24.23(9) Reserved.

24.23(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

24.23(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

24.23(12) If a claimant is in jail or prison, such claimant is not available for work.

24.23(13) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(14) An individual is deemed not available for work because such individual cannot be contacted by the department for referral to possible employment.

24.23(15) Where a claimant has demanded a wage in excess of the wages most commonly paid in such claimant's locality for the suitable work the individual is seeking.

24.23(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

24.23(17) Work is unduly limited because the claimant is not willing to work the number of hours required to work in the claimant's occupation.

24.23(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

24.23(19) Availability for work is unduly limited because the claimant is not willing to accept work in such claimant's usual occupation and has failed to establish what other types of work that can and will be performed at the wages most commonly paid in the claimant's locality.

24.23(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

24.23(21) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(22) Where a claimant does not want to earn enough wages during the year to adversely affect receipt of federal old-age benefits (social security).

24.23(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

24.23(24) When a claimant is receiving from the Veterans Administration an educational assistance allowance under the War Orphans Educational Assistance Act of 1956, which is disqualifying under the Social Security Act.

24.23(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

24.23(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

24.23(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

24.23(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

24.23(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

24.23(30) Failure to attend the major portion of the scheduled workweek for department approved training.

24.23(31) Where the claimant spent the major portion of the period traveling while relocating.

24.23(32) The claimant is ineligible for benefits because no search for work was made during the period such claimant was on vacation unless the provisions of Iowa Code section 96.19(38)*"c"* are met.

24.23(33) Where the claimant left employment prior to a scheduled date of layoff when such claimant could have remained in employment during this period. No disqualification may be imposed in accordance with Iowa Code section 96.5(1)*"g"* for the period subsequent to the date of the scheduled layoff if such claimant is otherwise eligible. The claimant will be disqualified for the period between the last day worked and the date of the scheduled layoff because of voluntary unemployment.

24.23(34) Where the claimant is not able to work due to personal injury.

24.23(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

24.23(36) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(37) An individual shall be deemed to have failed to make an effort to secure work if the individual has followed a course of action designed to discourage prospective employers from hiring such individual in suitable work.

24.23(38) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(39) Where the work search or the Eligibility Review Form has been deliberately falsified for the purpose of obtaining unemployment insurance benefits. The general guide for disqualifications for falsification of work search is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the representative because each case must be decided on its own merits. The administrative penalty recommended for falsification is:

a. First offense—six weeks penalty.

b. Second offense—nine weeks penalty.

c. Third offense—total disqualification for the remainder of the benefit year plus consideration of the possibility of filing fraud charges depending on the circumstances.

24.23(40) Reserved**.**

24.23(41) The claimant became temporarily unemployed, but was not available for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice to work, and that the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

This rule is intended to implement Public Law 96-499, Iowa Code sections 96.4(3), 96.5(1), 96.6(1), 96.19(38)*"c"* and 96.29.

871—24.24(96) Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.24(1) *Bona fide offer of work.*

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

b. Upon notification of a job opening for a claimant, a representative of the department shall notify the claimant of the job referral. If the claimant fails to respond without good cause, the claimant shall be disqualified until such time as the claimant contacts the local workforce development center or unemployment insurance service center.

24.24(2) *Job within claimant's capabilities.*

a. The job offered must be within the claimant's physical capabilities and not require any undue physical skill or particular training which the claimant does not already possess. As the period of unemployment lengthens, work which might originally have been unsuitable may become suitable.

b. If the claimant, separated for lack of work, fails to accept work offered by the employer on recall or fails to apply for work when directed by a representative of the department, such failure shall constitute a refusal of suitable work. In such a situation said claimant shall be disqualified for failure to apply for or accept an offer to work until such time as the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.24(3) *Each case decided on its own merits.* Based upon the facts found by the department through investigation it shall then be determined whether the work was suitable and whether the claimant has good cause for refusal. Each case shall be determined on its own merits as established by the facts. A reason constituting good cause for refusal of suitable work may nevertheless disqualify such claimant as being not available for work.

24.24(4) *Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3).* Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

24.24(5) *Bumping rights to a job.* A claimant who fails to exercise seniority rights to bump a less senior employee is eligible for benefits and the provision pertaining to the search for work is waived during a period of regular unemployment insurance benefits. This waiver of the search for work does not apply to a claimant who is receiving extended benefits.

24.24(6) *Claimant physically unable to perform job.* A medical certification from a medical practitioner must be submitted to support the claimant's statement that work offered is not suitable because of the claimant's physical condition.

24.24(7) *Gainfully employed outside of area where job is offered.* Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

24.24(8) *Refusal disqualification jurisdiction.* Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa Code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

24.24(9) Reserved.

24.24(10) *Distance to new job.* Without a prior specific agreement between the employer and employee the employee's refusal to follow the employer to a distant new job site shall not be reason for a refusal disqualification.

24.24(11) *Bulletin board notice of work.* A bulletin board notice for employees to work during a plant shutdown shall not constitute an offer of work by the company. Such offer of work must be by personal contact to the employee.

24.24(12) *Claimant discourages prospective employers.* When a claimant willfully follows a course of action designed to discourage a prospective employer from hiring such claimant, the claimant shall be deemed to have refused suitable work as contemplated by the statute.

24.24(13) *Claimant moved to another state.* A claimant who moves to another state shall not be subject to disqualification for refusal to return to a previously held job.

24.24(14) *Employment offer from former employer.*

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)*"b"* are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

24.24(15) *Suitable work.* In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

a. Any risk to the health, safety and morals of the individual.

b. The individual's physical fitness.

c. Prior training.

d. Length of unemployment.

e. Prospects for securing local work by the individual.

f. The individual's customary occupation.

g. Distance from the available work.

h. Whether the work offered is for wages equal to or above the federal or state minimum wage, whichever is higher.

i. Whether the work offered meets the percentage criteria established for suitable work which is determined by the number of weeks which have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.

j. Whether the position offered is due directly to a strike, lockout, or other labor dispute.

k. Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.

l. Whether the individual would be required to join or resign from a labor organization.

24.24(16) *Disabled accessibility to job.* A job offer shall not be suitable if a disabled individual has no access to a building or its facilities.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(2), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.11(1), 96.16, 96.19(38), and 96.29.

871—24.25(96) Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs *"a"* through *"i,"* and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

24.25(2) The claimant moved to a different locality.

24.25(3) The claimant left to seek other employment but did not secure employment.

24.25(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

24.25(5) Reserved.

24.25(6) The claimant left as a result of an inability to work with other employees.

24.25(7) The claimant failed to return to work upon the termination of a labor dispute.

24.25(8) The claimant left to enter military service, either voluntarily or by conscription. While in military service such claimant shall be considered to be on leave from employment. It shall only be considered a voluntary quit issue when upon release from military service such claimant does not return to such claimant's employer to apply for employment within 90 days; provided, that such person shall give evidence to the employer of satisfactory completion of such military service and further provided that such person is still qualified to perform the duties of such position.

24.25(9) Reserved.

24.25(10) The claimant left employment to accompany the spouse to a new locality.

24.25(11) The claimant left to get married.

24.25(12) The claimant left without notice during a mutually agreed upon trial period of employment.

24.25(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

24.25(14) Reserved.

24.25(15) Reserved.

24.25(16) The claimant is deemed to have left if such claimant becomes incarcerated.

24.25(17) The claimant left because of lack of child care.

24.25(18) The claimant left because of a dislike of the shift worked.

24.25(19) The claimant left to enter self-employment.

24.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

24.25(21) The claimant left because of dissatisfaction with the work environment.

24.25(22) The claimant left because of a personality conflict with the supervisor.

24.25(23) The claimant left voluntarily due to family responsibilities or serious family needs.

24.25(24) The claimant left employment to accept retirement when such claimant could have continued working.

24.25(25) The claimant left to take a vacation.

24.25(26) The claimant left to go to school.

24.25(27) The claimant left rather than perform the assigned work as instructed.

24.25(28) The claimant left after being reprimanded.

24.25(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

24.25(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

24.25(31) The claimant left work to keep from earning enough wages during the year to adversely affect claimant's receipt of federal old-age benefits (social security).

24.25(32) The claimant left by refusing a transfer to another location when it was known at the time of hire that it was customary for employees to transfer as required by the job.

24.25(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

24.25(34) The claimant left because work was irregular due to weather conditions; however, this working condition was not unusual in claimant's type of employment.

24.25(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

a. Obtain the advice of a licensed and practicing physician;

b. Obtain certification of release for work from a licensed and practicing physician;

c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or

d. Fully recover so that the claimant could perform all of the duties of the job.

24.25(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

24.25(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

24.25(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

24.25(39) Reserved.

24.25(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.6(2), 96.16, 96.19(6)*"a,"* and 96.19(38).

871—24.26(96) Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

24.26(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

24.26(2) The claimant left due to unsafe working conditions.

24.26(3) The claimant left due to unlawful working conditions.

24.26(4) The claimant left due to intolerable or detrimental working conditions.

24.26(5) The claimant was laid off by the employer for being pregnant; however, availability must still be determined.

24.26(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph *"b"* an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

24.26(7) Reserved.

24.26(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or by marriage.

24.26(9) The claimant left employment upon the advice of a licensed and practicing physician for the sole purpose of taking a family member to a place having a different climate and subsequently returned to the claimant's regular employer and offered to perform services, but the claimant's regular or comparable work was not available. However, during the time the claimant was at a different climate the claimant shall be deemed to be unavailable for work notwithstanding that during the absence the claimant secured temporary employment. (Family is defined as: wife, husband, children, parents, grandparents, grandchildren, foster children, brothers, brothers-in-law, sisters, sisters-in-law, aunts, uncles or corresponding relatives of the classified employee's spouse or other relatives of the classified employee or spouse residing in the classified employee's immediate household.)

24.26(10) A claimant who underwent a mandatory retirement as of a certain age because of company policy or in accordance with an agreement between the employer and union.

24.26(11) The granting of a written release from employment by the employer at the employee's request is a mutual termination of employment and not a voluntary quit. However, this would constitute a period of voluntary unemployment by the employee and the employee would not meet the availability requirement of Iowa Code section 96.4(3).

24.26(12) When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

24.26(13) A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date designated by the employer. After the employer-designated date, the separation shall be considered a layoff.

24.26(14) Rescinded IAB 7/28/99, effective 9/1/99.

24.26(15) Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

24.26(16) The claimant left employment for a period not to exceed ten working days or such additional time as was allowed by the employer, for compelling personal reasons and prior to leaving claimant had informed the employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist or at the end of ten working days, whichever occurred first, the claimant returned to the employer and offered to perform services, but no work was available. However, during the time the claimant was away from work because of the continuance of this compelling personal reason, such claimant shall be deemed to be not available for work.

24.26(17) Reserved.

24.26(18) Reserved.

24.26(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the

determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

24.26(20) The claimant left work voluntarily rather than accept a transfer to another locality that would have caused a considerable personal hardship.

24.26(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

24.26(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

24.26(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

24.26(24) Reserved.

24.26(25) Temporary active military duty. A member of the national guard or organized military reserves of the armed forces of the United States ordered to temporary active duty for the purpose of military training or ordered on active state service, shall be entitled to a leave of absence during the period of such duty. The employer shall restore such person to the position held prior to such leave of absence, or employ such person in a similar position; provided, that such person shall give evidence to the employer of satisfactory completion of such training or duty, and further provided that such person is still qualified to perform the duties of such position.

24.26(26) Reserved.

24.26(27) Refusal to exercise bumping privilege. An individual who has left employment in lieu of exercising the right to bump or oust a fellow employee with less seniority shall be eligible for benefits.

24.26(28) The claimant left the transferring employer and accepted work with the acquiring employer at the time the employer acquired a clearly segregable and identifiable part of the transferring employer's business or enterprise. Under this condition, the balancing account shall immediately become chargeable for the benefits paid which are based on the wages paid by the transferring employer, provided the acquiring employer does not receive a partial successorship, and no disqualification shall be imposed if the claimant is otherwise eligible.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.16, and 96.19(38).

871—24.27(96) Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)*"g."*

871—24.28(96) Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(1) The claimant shall be eligible for benefits even though having voluntarily left employment, if subsequent to leaving such employment, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

24.28(2) The claimant shall be eligible for benefits even though having been previously disqualified from benefits due to voluntary quit, if subsequent to the disqualification, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

24.28(3) Reserved.

24.28(4) Reserved.

24.28(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

24.28(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

24.28(7) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the administrative law judge and such decision has become final.

24.28(8) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the employment appeal board and such decision has become final.

This rule is intended to implement Iowa Code section 96.5(1)*"a."*

871—24.29(96) Business closing.

24.29(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

24.29(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

24.29(3) Verification of going out of business. When the unemployment insurance representative is informed by the individual or has knowledge of an employer going out of business at a factory, establishment, or other premises, the unemployment insurance representative completes a Form 60-0240, Verification of Business Closing, and refers Form 60-0240 to the field audit section for assignment to a field auditor who verifies the business closing. A Form 62-2056, Review of Business Status for Closing Credits, is completed for each succeeding claimant who requests to be included in a redetermination for business closing credits. This form is added to the Form 60-0240 already in the department file for the appropriate pending investigation. Upon return of the Form 60-0240 from the field audit section, an unemployment insurance representative will issue the appropriate decisions to all claimants who

requested that their unemployment insurance claim be redetermined as a business closing based on the results of the investigation.

871—24.30 Reserved.

871—24.31(96) Subsequent benefit year condition.

24.31(1) The claimant must have been paid benefits on a previous claim.

24.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least $250, to fulfill the condition to be eligible for benefits on a new claim. Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

24.31(3) Insured work means insured work in any state.

24.31(4) Employment for a railroad under the Railroad Unemployment Insurance Act is insured work.

24.31(5) The amount equal to $250 in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

24.31(6) Disqualification for lack of the $250 in insured work shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling $250 during or subsequent to the previous benefit year.

This rule is intended to implement Iowa Code section 96.4(4).

871—24.32(96) Discharge for misconduct.

24.32(1) *Definition.*

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

b. Any individual who has been discharged or suspended for misconduct connected with work is disqualified for benefits until the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.32(2) Reserved.

24.32(3) *Gross misconduct.*

a. For the purposes of these rules gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant's employment, provided that such claimant is duly convicted thereof or has signed a statement admitting that such claimant has committed such act.

b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney's information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than $500 or by imprisonment in the county jail for more than 30 days.

24.32(4) *Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established.

In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

24.32(5) *Trial period.* A dismissal, because of being physically unable to do the work, being not capable of doing the work assigned, not meeting the employer's standards, or having been hired on a trial period of employment and not being able to do the work shall not be issues of misconduct.

24.32(6) *False work application.* When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

24.32(7) *Excessive unexcused absenteeism.* Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

24.32(8) *Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

24.32(9) *Suspension or disciplinary layoff.* Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Sheryl A. Cosper vs. Iowa Department of Job Service and Blue Cross of Iowa*.

871—24.33(96) Labor disputes.

24.33(1) *Definition.* As used in sections 96.5(3)*"b"*(1) and 96.5(4), the term labor dispute shall mean any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. An individual shall be disqualified for benefits if unemployment is due to a labor dispute.

24.33(2) *Initial requirements —workforce development center*.

a. As soon as the workforce development center has knowledge of a labor dispute or work stoppage in its administrative area, a report on Form 68-0535, Labor Dispute Report, shall be sent to the administrative office of the department of workforce development, attention: legal counsel, unemployment insurance services division, advising of the labor dispute or work stoppage.

b. If the labor dispute or work stoppage is terminated before the report is transmitted to the legal counsel, unemployment insurance services division, the information concerning the termination of the dispute and the date of the worker's return to work must also be entered on Form 68-0535.

c. When the labor dispute or work stoppage is terminated subsequent to the filing of the initial Form 68-0535, the legal counsel, unemployment insurance services division, shall be notified of the termination and return to work dates.

d. In those instances where an association represents a group of employers, include the names and addresses of the employers who are involved in the labor dispute in your report. Include also the name and address of the association and the name of the association official who can furnish information about the work stoppage.

e. In taking initial claims in which there is a labor dispute, the workforce development center will complete an initial application for unemployment, Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, in the normal manner and will also include the union name and local union number.

f. If a claim notice is inadvertently returned by the employer to the workforce development center stating there is a labor dispute, the protest with the postmarked envelope attached shall be transmitted to the unemployment insurance service center.

g. If there is a work stoppage at the premises of an employer and it is a known fact that there has not been a union and that at present there is no union representation nor any attempt by a union to organize the workers of the plant, a statement must be taken from each individual claiming benefits.

h. Statements from each individual claiming benefits are not required on the labor dispute issue whenever there is union representation even though some of the individuals may not be union members.

i. Statements from each individual claiming benefits will be taken whenever the work stoppage is considered as a nonunion stoppage, meaning no union representation at the premises of the employer. In such cases, each individual's statement would become a part of the evidence submitted to the administrative office of the department of workforce development.

j. When there is a termination of the work stoppage, or if the issues have not been resolved and all workers returned to work, a report must be made to the legal counsel, unemployment insurance services division. The report will include the:

(1) Date on which an agreement was reached on the issues which caused the work stoppage.

(2) Date on which the workers returned to work, or a schedule as to how the workers will return to work.

k. The requirements in subrules 24.33(1) and 24.33(2) will cover the establishment and termination reports of the work stoppage and give the information necessary for the claims section to investigate the work stoppage when claims are filed on which a protest is made that the claimant is involved in a work stoppage.

l. During the period of a labor dispute, the claims involved in the labor dispute are processed as though no separation from the employer had occurred. Therefore, if an individual is still unemployed after the termination of the labor dispute, such individual has either been laid off, voluntarily left, or has been discharged from employment, and an additional claim must be taken if the individual continues in claim status.

m. When the employer or the union requests advice and information pertaining to what action should be taken in regard to the labor dispute, the workforce development center, at that time, should obtain all the information possible from the caller for inclusion in the labor dispute report to the unemployment insurance services division.

n. The employer will receive separate notices of claim filing for each claimant and shall make any protest in the appropriate section on the reverse side of Form 65-5317, Notice of Claim. The employer will receive a copy of the decision which may be appealed.

o. Form 65-5317, Notice of Claim Filing, will be used by the employer to report total unemployment due to strike, lockout or other labor dispute.

p. Employer shall use Form 60-0154, Notice of Separation or Refusal of Work, or the electronic version of that form, to report separations from work by employees for reasons of voluntary leaving, misconduct and job refusal. Form 60-0154 shall not be used by employers to report labor disputes because the document is not designed for that type of an employment separation or work refusal.

24.33(3) *Initial determination.*

a. In any case in which the payment or denial of benefits will be determined by the provisions of Iowa Code section 96.5(4), the representative of the unemployment insurance services division shall promptly review the evidence submitted, and such additional evidence as may be required, and shall make a decision upon the issues involved under that subsection.

b. The representative of the unemployment insurance services division shall promptly notify all interested parties to the claim of the decision. Said parties shall have ten days, from the date of mailing the decision to the last known address of record, to appeal the decision.

871—24.34(96) Labor dispute—policy.

24.34(1) Reserved.

24.34(2) Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

24.34(3) The relationship between employer and employee continues during the period of the labor dispute unless severed by the employer or employee.

a. If the relationship is severed by the employer, Iowa Code section 96.5(2) concerning discharge for misconduct shall govern.

b. If the relationship is severed by the employee, Iowa Code section 96.5(1) concerning voluntary leaving shall govern.

24.34(4) An individual who is unemployed because of a labor dispute and accepts employment elsewhere during the period of the labor dispute, must return to the previous employer when said labor dispute is settled or be subject to a determination on the issue of voluntary leaving.

24.34(5) Any individual unemployed because of failure or refusal to cross a picket line during a labor dispute shall be deemed to be involved in such labor dispute.

24.34(6) If an initial determination by the representative of the unemployment insurance services division of a labor dispute issue is appealed, the case shall be assigned to an administrative law judge, who shall receive the testimony of any party to the hearing and shall issue a decision on the labor dispute. Such decision may be appealed in conformity with these rules to the employment appeal board of the Iowa department of inspections and appeals.

24.34(7) An individual not involved in or participating in a labor dispute who failed to report to work because of a picket line shall be deemed to have voluntarily left employment. However, if the individual was subjected to hostility or violence in an attempt to cross a picket line, then the individual shall be deemed to have involuntarily left employment.

a. The division shall presume that any strike or lockout is being conducted in a lawful manner unless evidence to the contrary has been introduced. The division shall presume that any picketing is being conducted in a peaceful manner and that ingress or egress to the employer's facility is not being unlawfully impeded.

b. The division shall presume that where an injunction has been sought against actual or threatened violence, unlawful impedance of ingress or egress, or other unlawful conduct and such injunction shall have been denied on the basis that actual or threatened unlawful conduct has not been established that the picket line is peaceful unless evidence is introduced which establishes the violent nature of picket line activity.

c. If an injunction is obtained, the division shall presume the picket line is peaceful as of the date the injunction is issued unless evidence is introduced which proves the contrary proposition.

24.34(8) A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

a. The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout and the claimants shall not be disqualified because of a labor dispute.

b. A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute and the collective bargaining negotiations will directly affect the claimant's condition of employment, or

(2) The claimant or the recognized collective bargaining agent declines an offer from the employer to extend the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

24.34(9) To constitute a labor dispute there must be a stoppage of work at the plant or establishment. If there is no stoppage of work, the individual who leaves employment shall be deemed to have voluntarily quit.

24.34(10) When individuals, not as a group, union, or under union direction or suggestion but individually, left their work voluntarily in protest against the discharge of a fellow employee by their employer, in an unauthorized strike, it is held to be a voluntary quit.

24.34(11) Employment offered by an employer involved in a labor dispute or an employer who becomes involved in a labor dispute prior to acceptance by the claimant is considered:

a. Not suitable if the offer is made to a person who would be a new employee or a former employee who was laid off before the labor dispute and the vacancy was created by the strike, lockout, or other labor dispute.

b. Suitable if the offer was made to a former employee, who was previously laid off, provided the position offered is not vacant because of the strike, lockout, or other labor dispute and the provisions of section 96.5(4) shall apply.

c. Suitable if the offer is made to a new employee, who was not previously laid off by the same employer, and the vacancy was not created by a labor dispute.

24.34(12) Other employment accepted during periods of labor disputes does not free the claimant from the labor dispute section of the Iowa employment security law unless the claimant severs relationship with employer and obtains bona fide employment elsewhere.

This rule is intended to implement Iowa Code sections 96.5(3) and 96.5(4).

871—24.35(96) Date of submission and extension of time for payments and notices.

24.35(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States postal service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted by any means other than the United States postal service on the date it is received by the division.

24.35(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

24.35(3) Any notice, report form, determination, decision, or other document mailed by the division shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

871—24.36(96) Interstate benefits.

24.36(1) An interstate claimant is an individual who claims benefits under the unemployment insurance law of one or more liable states. Interstate benefits are payable under the plan approved by the national association of state workforce agencies to unemployed individuals absent from the state(s) in which wage credits were earned.

24.36(2) The division shall determine unemployment benefit claims for interstate claimants in accordance with applicable state law and rules and shall be in substantial compliance with those rules promulgated by the United States Department of Labor as published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650.

871—24.37(96) Payment of benefits to interstate claimants.

24.37(1) Section 96.20 of the employment security law of Iowa authorizes the department to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both. In conformity with this section, the department of workforce development prescribes:

a. Applicability. This regulation shall govern the department in its administrative cooperation with other states adopting a similar regulation for the payment of unemployment insurance benefits to interstate claimants.

b. Definitions. As used in this rule unless the context clearly requires otherwise:

(1) *"Interstate benefit payment plan."* This is the plan approved by the national association of state workforce agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(2) *"Interstate claimant."* This is an individual who claims benefits under the unemployment insurance law of one or more liable states. The term interstate claimant shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such a claimant in a specified area.

(3) *"State."* This includes the District of Columbia, Puerto Rico, the Virgin Islands and Canada.

(4) *"Agent state."* This means any state in which an individual files a claim for benefits from another state.

(5) *"Liable state."* A liable state is any state against which an individual files, from another state, a claim for benefits.

(6) *"Benefits."* This is the compensation payable to an individual, with respect to unemployment, under the employment security law of any state.

(7) *"Week of unemployment."* This is any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

c. Registration for work.

(1) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law, rules, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

d. Benefit rights of interstate claimants.

(1) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. The department will respect the prior adjudication of a liable state if the department is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.

(3) The benefit rights of interstate claimants established by this regulation shall apply only with respect to new claims filed on or after July 5, 1953.

e. Claim for benefits.

(1) Claims for benefits shall be filed by interstate claimants on uniform interstate claim forms or by using the procedures provided by the liable state and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(2) Rescinded IAB 8/6/03, effective 9/10/03.

f. Determination of claims.

(1) In connection with each claim filed by an interstate claimant, the agent state shall ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(2) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim unless the liable state has a procedure for taking out-of-state claims.

g. Appellate procedure.

(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified representative of the agent state.

24.37(2) *Extended benefits interstate claims.* When extended benefits are in effect and a claimant is filing for extended benefits, an eligible individual shall be limited to a maximum of two weeks of the extended benefit entitlement if the individual moves from this state, before or during an extended benefit period triggered by this state's "on" indicator, to another state in which an extended benefit period is not in effect.

This rule is intended to implement Iowa Code sections 96.6(1) and 96.29(3).

871—24.38(96) Combined wage claim.

24.38(1) *Purpose of plan.* The combined wage program is to enable an unemployed worker with covered employment or wages in more than one state to combine all such employment and wages in one state in order to qualify for benefits or to receive increased benefits.

a. Each state will cooperate with every other state by implementing these uniform combined wage procedures, rules and regulations. This includes the District of Columbia, U.S. Virgin Islands and the Commonwealth of Puerto Rico.

b. The benefit year, base period, qualifying wages, benefit rate, and duration of benefits under the unemployment compensation law of the paying state shall be the benefit year, base period, qualifying wages, benefit rate, and duration of benefits applicable to a combined wage claimant.

c. The rights of the individual under the combined wage claim plan shall be determined by the paying state after the combining of all wages available from the transferring states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department shall respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

d. All other provisions of the unemployment compensation laws and rules of the state agency of the paying state shall be applied to the combined wage claim.

e. The state in which the claim is filed will be the paying state except in those cases in which the individual does not qualify after the transfer has been completed or if the claimant meets the definition of a commuter.

24.38(2) *Exception to combining wage credits.* Under the following circumstances, wages and employment are not transferable to the paying state:

a. Any employment and wages which have been transferred to any other paying state and not returned unused.

b. Wages that have been used by the transferring state as the basis of a monetary determination which established a benefit year.

c. Any employment and wages that have been canceled or are unavailable as a result of a transferring state determination made prior to the request for transfer.

24.38(3) The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done by cash or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

871—24.39(96) Department-approved training or retraining program. The intent of department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

24.39(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

a. The educational establishment at which the claimant would receive training.

b. The estimated time required for such training.

c. The occupation which the training is allowing the claimant to maintain or pursue.

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

24.39(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

871—24.40(96) Department-approved training (DAT), state tuition—procedure. Rescinded IAB 8/6/03, effective 9/10/03.

871—24.41(96) Unemployed parents program (FIP/UP). Under Public Law 94-566, an unemployed parent who is eligible for both unemployment insurance and family investment program/unemployed parent (FIP/UP) shall be required to collect any unemployment insurance to which the individual is entitled before receiving any payments under the FIP/UP program.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.42(96) Retention of DHS referral form. When an unemployed parent presents the DHS referral Form PA-2138-5 to the workforce development center representative, the representative will take the form, sign it and complete an application for job placement assistance and/or employment insurance benefits.

24.42(1) The weekly benefit amount and maximum benefit amount of the claimant will be entered in job service comments on Form PA-2138-5. If the person is not monetarily eligible, that notation will be entered and the form mailed to human services.

24.42(2) A FIP/UP claimant may have the claim protested which can affect eligibility. Human services may request additional information on a subsequent Form PA-2138-5 concerning nonmonetary allowances or disqualifications on the claim, which will be furnished in the comments section of the form.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.43 and **24.44** Reserved.

871—24.45(96) Trade Act of 1974. Unemployment benefits payable to claimants under the Trade Act of 1974 (P.L. 93-618), shall be determined in accordance with the rules of the United States department of labor as published in the Code of Federal Regulations, chapter 29, parts 70 and 91. The Trade Act of 1974 is designed to pay unemployment benefits to workers who become unemployed due to foreign production of goods replacing domestic production.

871—24.46(96) Extended benefits.

24.46(1) *Purpose.* Extended benefits are benefits paid to an eligible individual during periods of high unemployment in a state under the Federal-State Extended Unemployment Compensation Act of 1970 and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615. The purpose of extended benefits is to extend the period of time for which an individual may receive benefits to allow the individual additional time to locate employment in recognition of the likelihood that employment is more difficult to find during periods of high unemployment in a state. The cost of extended benefits is shared between the federal and state governments.

24.46(2) *Determination of when extended benefits are paid.*

a. *When paid.* The state "on" indicator determines when extended benefits are paid in this state. A state "on" indicator is in effect during a week for which the rate of insured unemployment is 5 percent or greater and 120 percent or greater than the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

b. *When not paid.* The state "off" indicator determines when extended benefits are not paid in this state. A state "off" indicator is in effect during a week for which the rate of insured unemployment is less than 5 percent or less than 120 percent of the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

c. *Period of payment.* The extended benefit period is the period of time when extended benefits are paid in this state. An extended benefit period begins with the third week following a week for which there is a state "on" indicator in effect. An extended benefit period ends either with the completion of the thirteenth consecutive week beginning with the third week following a state "on" indicator, or later, with the completion of the third week following the first week for which there is a state "off" indicator. However, another extended benefit period shall not begin until the fourteenth week following the end of a previous extended benefit period.

d. *Rate of insured unemployment.* For the purposes of this subrule, the rate of insured unemployment means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits (excluding state plant closing benefits and benefits paid to federal civilian employees and ex-servicemembers under 5 U.S.C., chapter 85) in this state for weeks of unemployment with respect to the most recently completed 13-consecutive-week period by the average monthly insured employment for the first four of the six most recently completed calendar quarters immediately preceding the end of the 13-week period.

24.46(3) *Announcement and notice of the beginning and ending of an extended benefit period.*

a. *Announcement by director.* The beginning or ending date, whichever is appropriate, of an extended benefit period is announced by the director of the department of workforce development

through appropriate news media in this state. As the case may be, the announcement clearly describes the unemployed individuals who may become eligible or ineligible for extended benefits.

b. Notice to individuals. The Form 65-5309, Notice to Individuals, is used by the department to notify individuals of:

(1) The beginning of an extended benefit period. The notice of potential entitlement to extended benefits is sent to each individual who has exhausted all rights to regular benefits either prior to the beginning of, or during, the extended benefit period and who has a benefit year which will not end prior to the beginning of the extended benefit. The notice describes those actions required of the individual to claim the extended benefits.

(2) The ending of an extended benefit period. The notice of termination of entitlement to extended benefits is sent to each individual who is currently filing a claim for extended benefits of the ending of an extended benefit period. The notice describes the effect on the individual's right to extended benefits.

24.46(4) *Amount and duration of extended benefits.*

a. Weekly extended benefit amount. An individual's weekly extended benefit amount paid for a week of total unemployment during the individual's eligibility period is equal to the individual's weekly regular benefit amount paid for a week of total unemployment during the individual's applicable benefit year.

b. Duration of extended benefits. The total amount of extended benefits which an individual may receive during the individual's applicable benefit year is limited to 50 percent of the total amount of regular benefits, excluding any state plant closing benefits, received by the individual during that benefit year or 13 times the individual's weekly regular benefit amount paid for a week of total unemployment during that benefit year whichever is less; however, an individual is limited to two weeks of extended benefits if the individual files an interstate claim for extended benefits in a state in which an extended benefit period is not in effect.

c. Eligibility period. The eligibility period is the period of weeks in and after an individual's benefit year which begin in an extended benefit period when an individual is eligible to receive extended benefits; however, if a benefit year ends within an individual's eligibility period for extended benefits, the remaining extended benefits which the individual is entitled to receive in that portion of the eligibility period which extends beyond the end of the individual's benefit year, is reduced, but not below zero, by an amount arrived at by multiplying the number of weeks of Federal Trade Readjustment Act benefits received by the individual during the benefit year times the individual's weekly extended benefit amount.

d. Applicable benefit year. The applicable benefit year includes the period of one year from the date that an individual files a valid claim for benefits and any weeks following this one-year period in which the individual's eligibility period for extended benefits has not expired and the individual is not able to establish a second benefit year for regular benefits.

24.46(5) *Eligibility requirements for extended benefits.* Except where the results are inconsistent with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615, the provisions of this state's law which apply to claims for, and the payment of, regular benefits apply to claims for, and the payment of, extended benefits. An individual is eligible to receive extended benefits for a week of unemployment during the individual's eligibility period if the department finds that all of the following conditions are met:

a. The individual is an exhaustee. An exhaustee is an individual who has exhausted all entitlements to regular benefits under this or any other state law as well as federal civilian employee, railroad unemployment insurance, and ex-servicemember benefits.

An individual is also an exhaustee:

(1) If the individual may be entitled to additional regular benefits as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year.

(2) If the individual's benefit year has expired prior to the week, and the individual has no, or insufficient, wages on the basis of which to establish a new benefit year.

(3) If the individual has no right to benefits under other laws of the federal government, as specified in the regulations issued by the United States Secretary of Labor, or a contiguous country with which the United States has an agreement, but if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to the benefits, then the individual is an exhaustee.

b. The individual has one and one-half times the high quarter wages. An individual is required to have been paid wages for insured work during the individual's base period in an amount at least one and one-half times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.

c. The individual is required to actively seek, apply for or accept, suitable work. When an individual files an initial claim for extended benefits, the Form 60-0274, Notice for Individuals Claiming Extended Benefits, is used to determine the individual's prospects for obtaining work and to notify the individual that, beginning with the week following the week in which the individual is furnished this notice:

(1) If the individual's prospects for obtaining work within a reasonably short period are "good," the individual is required to actively seek, apply for or accept, suitable work in which, all other considerations being reasonably equal, the gross average weekly wage equals or exceeds 65 percent of the individual's average weekly wage from the highest earnings quarter of the individual's base period.

(2) If the individual's prospects for obtaining work within a reasonably short period are "not good," the individual is required to actively seek, apply for or accept, suitable work which is within the individual's capabilities to perform and which offers a gross average weekly wage which exceeds the individual's weekly extended benefit amount for a week of total unemployment plus any supplemental unemployment benefits; however, the individual is not required to actively seek, apply for or accept, work which offers a gross average weekly wage less than the federal or state minimum wage whichever is higher.

(3) For the purposes of this paragraph, reasonably short period means four weeks. If an individual whose prospects for obtaining work are "good" has not secured work within four weeks following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, then the individual is notified on Form 65-5309, Notice to Individuals, that the individual's prospects for obtaining work are now considered as "not good."

(4) For the purposes of this paragraph, actively seeking work means that, for each week following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, the individual is required to provide tangible evidence on the weekly claim for benefits that the individual is making a systematic and sustained effort to search for suitable work.

(5) If prospects are determined to be "not good," an individual shall not be disqualified for failing to apply for or accept work which is not offered in writing or is not listed with this state's employment service.

d. The individual is required to requalify following a disqualification for failure to actively seek, apply for or accept, suitable work. To become eligible for extended benefits following a disqualification for failure to actively seek, apply for or accept, suitable work, the individual is required to be employed in insured work for four weeks, which need not be consecutive, and earn four times the individual's weekly extended benefit amount.

871—24.47(96) Disaster benefits. Benefits under the Disaster Relief Act of 1974. Unemployment benefits payable under Public Law 93-288, the Disaster Relief Act of 1974, will be determined in accordance with the rules of the United States Department of Labor and published in the Code of Federal Regulations, Chapter 20, Parts 625 and 650, and Chapter 32, Part 1710.16. These benefits are payable to claimants who are unemployed due to natural disasters. A claimant who is eligible for regular unemployment benefits shall not be eligible for disaster unemployment assistance.

871—24.48(96) UCFE claims. Benefits under the Federal Employer's Compensation Act. Unemployment benefits for civilian federal employees shall be determined in accordance with the applicable state law and rules as well as the rules of the United States Department of Labor and

published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650. These benefits are payable under the Federal Employer's Compensation Act, 5 U.S.C. 8101-8150, 8191-8193, and are based on wages earned by civilians in covered federal employment.

871—24.49(96) UCX claims. Benefits under the Ex-servicemember's Unemployment Compensation Act.

24.49(1) *Applicable law.* Unemployment benefits for ex-military personnel shall, in addition to being determined in accordance with applicable Iowa law and rules, be determined in substantial compliance with the rules and guidelines of the United States Department of Labor and published in the Code of Federal Regulations, Chapter 20, Parts 614 and 650.

24.49(2) *When payable.* These benefits are payable under the Ex-servicemember's Unemployment Compensation Act of 1958, 5 U.S.C. 8850. They allow unemployment compensation to be based on wages earned while on active military duty.

871—24.50(96) Temporary extended unemployment compensation.

24.50(1) to **24.50(5)** Rescinded IAB 8/6/03, effective 9/10/03.

24.50(6) Overpayments will be offset up to and including 50 percent of the temporary extended unemployment compensation benefit payment.

24.50(7) Waiver of overpayments.

a. Individuals who have received amounts of temporary extended unemployment compensation to which they were not entitled shall be required to repay the amounts of such temporary extended unemployment compensation except that the state repayment may be waived if the workforce development department determines that:

(1) The payment of such temporary extended unemployment compensation was without fault on the part of the individual; and

(2) Such repayment would be contrary to equity and good conscience.

b. In determining whether fault exists, the following factors shall be considered:

(1) Whether a material statement or representation was made by the individual in connection with the application for temporary extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the statement or representation was inaccurate.

(2) Whether the individual failed or caused another to fail to disclose a material fact in connection with an application for temporary extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the fact was material.

(3) Whether the individual knew or could have been expected to know that the individual was not entitled to the temporary extended unemployment compensation payment.

(4) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the individual or of which the individual had knowledge and which was erroneous or inaccurate or otherwise wrong.

c. In determining whether equity and good conscience exist, the following factors shall be considered:

(1) Whether the overpayment was the result of a decision on appeal;

(2) Whether the state agency had given notice to the individual that the individual may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and

(3) Whether recovery of the overpayment will cause financial hardship to the individual.

This rule is intended to implement Iowa Code sections 96.11 and 96.29.

871—24.51(96) School definitions.

24.51(1) Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department

of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

24.51(2) Educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

24.51(3) Employment definitions.

a. Professional employees including educational service agency employees means persons who are employed in an instructional, research or principal administrative capacity as explained below:

(1) Instructional: Services performed for an educational institution which consist of teaching in formal classroom and seminar situations, tutoring, or lecturing in the activity of imparting knowledge; or of services which consist of directing or supervising the instructional activities of others; or services which consist of counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(2) Research: Services performed for an educational institution which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. The work performed is in a predominantly intellectual field or artistic endeavor which is varied in character and requires the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

(3) Principal administrative: Services performed for an educational institution which consist of managing the educational institution or one of its major divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the educational institutions or one of its major divisions or departments. Work and activities are performed under general direction and broad objectives and missions, with the authority to determine goals and the techniques and methods of operations of the educational institution or one of its major divisions or departments. The duties performed by the individual rather than the title held should determine whether the prohibition applies. Neither providing a title nor withholding it should be controlling in itself.

b. Nonprofessional employees including educational service agency employees means persons who perform services in any capacity for an educational institution other than in an instructional, research, or principal administrative capacity.

24.51(4) Holiday recess. See vacation period subrule 24.51(8).

24.51(5) Institution of higher education means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

24.51(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

24.51(7) School duration period.

a. Academic year is defined as that period of time that school personnel are obligated by contract to render services to the educational institution during the school year.

b. Term is defined as either of the two periods into which the yearly period of instruction is normally divided, commonly referred to as a semester. If the educational institution operates on a quarterly basis, then term shall mean the same as a quarter period. If the educational institution operates

on a trimester basis, then term shall mean the same as a trimester period or any other division in a school year during which instruction is regularly given to students.

c. Twelve-month employment. School employees that perform services for educational institutions 12 months of a calendar year or years.

24.51(8) Vacation period or holiday recess. In Iowa Code section 96.4(5), the term "established and customary" vacation period or holiday recess involved in this provision includes those scheduled at Christmas and in the spring, when those vacation periods or recesses occur within a term.

24.51(9) Between terms or academic years denial means any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such terms or academic years.

871—24.52(96) Determining eligibility of school claims after employer protest.

24.52(1) Claim filed. When a claim has been filed by an employee of an educational institution, the department shall send a Form 65-5317, Notice of Claim, to the educational institution and such educational institution wishing to protest such a claim shall return such notice to the department and shall include on it a statement as to whether or not the individual who filed a claim had been given reasonable assurance for the ensuing academic year or term. The statement should include the date and method of such notification. A copy of the notification may be attached to Form 65-5317, Notice of Claim.

24.52(2) If the statement from the school indicates that there is no reasonable assurance of the employee returning to work for the ensuing academic year or term, the claim will be allowed, subject to meeting all other eligibility requirements. However, if an educational institution submits a statement or the claimant furnishes information concerning a reasonable assurance of school employment, the employee is subject to a denial of benefits. If the fact-finding should result in a disqualification, the effective starting date of the disqualification shall be determined as follows:

a. No earlier than the effective starting date of the claim as it would serve no useful purpose. If the job offer was prior to the beginning date of the claim and the claimant refuses the offer, the issue shall still be adjudicated since the issue is determined as a voluntary quit rather than a job refusal pursuant to subrules 24.25(37) and 24.26(19).

b. The Sunday of the week in which the job was offered under any of the following conditions:

(1) The employer protest was made within ten-day protest period.

(2) The department was notified within ten days of the date of the offer.

(3) The claimant was in a reporting status on a claim for unemployment insurance at the time the offer was made and the claimant failed to notify the department of the offer.

c. The Sunday of the week in which the claimant or employer notified this department of the offer unless the offer was prior to the week that the department was notified of the offer and the claimant was in reporting status on a claim for unemployment insurance at that time. In this situation, the effective starting date of disqualification shall be the Sunday of the week in which the job offer was made.

d. The Sunday of the week in which the employer notified the department of the offer to the claimant. A refusal to accept the offer of employment shall be adjudicated under the voluntary quit section of the law pursuant to subrules 24.25(37), 24.26(19) and 24.52(11).

24.52(3) Professional employee. Unemployment insurance payments which are based on school employment shall not be paid to a professional employee for any week of unemployment which begins between two successive academic years, between regular terms, or during a period of paid sabbatical leave if the individual has a contract or reasonable assurance to perform services in any such capacity for any educational institution for both such academic years or both such terms. However, unemployment insurance payments can be made which are based on non-school-related wage credits pursuant to subrule 24.52(6).

24.52(4) Nonprofessional employee.

a. Unemployment insurance payments which are based on school employment shall not be paid to a nonprofessional employee for any week of unemployment which begins between two successive academic years or terms if the individual has performed service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for the second academic year or term. However, unemployment insurance payments can be made based on non-school-related wage credits pursuant to subrule 24.52(6).

b. The nonprofessional employee may qualify for retroactive unemployment insurance payments if the school employment fails to materialize in the following term or year and the individual has filed weekly or biweekly claims on a current basis during the between terms denial period pursuant to subrule 24.2(1), paragraph *"e."*

24.52(5) Twelve-month, year-round employee. An educational institution employee who performs services on a 12-month, year-round basis whose employment is terminated through layoff or reduction in force prior to the completion of the 12-month period, is eligible for benefits and shall not be disqualified under the provisions of Iowa Code section 96.4(5). An offer of reemployment to the 12-month, year-round employee for the succeeding academic year or term shall be adjudicated under Iowa Code section 96.5(3), regarding offers of suitable work and no disqualification may be imposed prior to the week in which the employment is scheduled to commence.

24.52(6) Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

24.52(7) Head start programs are considered educational in nature; however, the employing unit as a whole must have as its primary function the education of students. When the employing unit is operated primarily for educational purposes then the between terms denial established by Iowa Code section 96.4(5) will apply between two successive academic years or terms and will apply for holiday and vacation periods to deny benefits to school personnel.

a. A nonprofit organization which has as its primary function civic, philanthropic or public assistance purposes does not meet the definition of an educational institution. Community action programs which have a head start school as one component are not an educational institution employer and the between terms denial does not apply.

b. A head start program which is an integral part of a public school system conducted by a board of education establishes an employing unit whose primary function is educational; therefore, the between terms denial would apply.

24.52(8) Wages earned and payment deferred. Many school employees receive remuneration from their school employers on a 12-month basis for the 9-month period worked. Deductions from unemployment insurance payments are on a "when earned" basis rather than on a "when paid" basis. Deferred wages currently paid which are based on earnings from a prior period are not deductible on a current week claimed pursuant to Iowa Code section 96.19(9)*"b"* and paragraph 24.13(2)*"o."*

24.52(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

24.52(10) Substitute teachers.

a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

b. Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subrule 24.22(2)*"i"*(1).

c. Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not considered to be unemployed persons pursuant to subrule 24.22(2)*"i"*(3).

d. However, substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subrule 24.22(2)*"i"*(3) if they are:

(1) Able and available for work.

(2) Making an earnest and active search for work each week.

(3) Placing no restrictions on their employability.

(4) Show attachment to the labor market. Have wages other than on-call wages with an educational institution in the base period.

e. A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.26(19).

24.52(11) Declination of new contract or reasonable assurance.

a. The school employee who is not employed on a 12-month, year-round basis and who fails or refuses to accept a contract or reasonable assurance of employment in the succeeding academic term or year shall have the separation adjudicated under the voluntary quit provision of Iowa Code section 96.5(1) pursuant to subrule 24.25(37).

b. This subrule also applies to substitute teachers who fail or refuse to accept a contract or reasonable assurance of employment in the succeeding academic term or year pursuant to subrules 24.26(19) and 24.26(22).

24.52(12) Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met. However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year shall be disqualified under the "between terms denial" provision.

24.52(13) Continuing supplemental (part-time) school employment after loss of nonschool employment. All employers, including employers of part-time workers are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account, whether contributory or reimbursable, pursuant to Iowa Code section 96.7(3)*"a"*(2).

871—24.53(96) Noncovered school-related employment.

24.53(1) Pursuant to rule 871—23.20(96), wages earned by a student who performs services in the employ of a school at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) cannot be used as wage credits for claim or benefit purposes. However, wages earned by an individual who is a full-time employee for a school whose academic pursuit is incidental to the full-time employment may be used for claim and benefit purposes.

24.53(2) Pursuant to rule 871—23.20(96), wages earned by the spouse of such a student in employment with the educational institution attended by the student cannot be used for benefit purposes if the employee-spouse is told prior to commencing the employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

24.53(3) Pursuant to rule 871—23.21(96), wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit at such institution that combines academic instruction with work experience are normally excluded from the definition of employment. Provided, however, that work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly

scheduled vacation and for which such student receives no academic credit shall be considered as insured employment.

871—24.54(96) Church school coverage. Schools affiliated with a church are exempt from coverage but may volunteer coverage by request to the department of workforce development. Schools not affiliated with a church are covered employers with covered employment. Church school coverage is defined pursuant to rule 871—23.27(96).

871—24.55 and **24.56** Reserved.

871—24.57(96) Athletes—disqualifications. "Athletes" as used in Iowa Code section 96.5(9), is intended to apply to professional athletes. A professional athlete is an individual whose occupation is participating in athletic or sporting events for wages. A semiprofessional athlete is within the scope of Iowa Code section 96.5(9), if such sports services are compensation in covered wages. Auxiliary personnel, such as coaches, trainers, etc., are not considered professional athletes and are not within the scope of Iowa Code section 96.5(9).

24.57(1) As used in Iowa Code section 96.5(9), "any services, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during the individual's base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

24.57(2) As used in Iowa Code section 96.5(9), "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

a. A regular player or team member.

b. An alternate player or team member.

c. An individual in training to become a regular player or team member.

d. An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

24.57(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the department after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

24.57(4) For the purposes of Iowa Code section 96.5(9), a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

a. The individual has an express or implied multiyear contract which extends into the subsequent sport season, or,

b. The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and

c. There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season, and

d. The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

24.57(5) Benefits which will be paid with respect to weeks of unemployment during a sports season shall be based on all wage credits of the individual. Wage credits would include those earned in sports as well as in other employment covered by an employment security law. With respect to weeks of unemployment that begin during a period between sports seasons (or similar periods) no benefits are payable on the basis of any athletic or nonathletic wages if substantially all (see subrule 24.57(1)) of the services performed by the individual during the base period were in sports or athletic events.

24.57(6) When a professional athlete is denied benefits because there is a reasonable assurance that the individual will again perform services as a professional athlete in the next ensuing season but the assurance fails to materialize, the denial of benefits is effective until the date established that the assurance

is ineffective. Following the ineffective date, benefits can be paid if the individual is otherwise eligible. If an assurance given to an individual is found to be not a bona fide assurance, benefits are payable if the individual is otherwise eligible.

24.57(7) Benefits will be paid with respect to weeks of unemployment between sports seasons (or similar periods) based on wage credits of the individual, paid in other employment covered by employment security law except those in sports or athletic events or training, or preparing to so participate.

24.57(8) Athletes—denial of benefits. An individual (athlete) will be denied benefits between seasons based on services performed by such individual (athlete).

This rule is intended to implement Iowa Code section 96.5(9).

871—24.58(96) Voluntary shared work. The voluntary shared work program provides that employers facing a temporary shortfall may reduce the work hours of employees in an affected unit and those employees will receive a portion of their regular unemployment insurance benefits. The program is designed to reduce unemployment and stabilize the workforce by allowing certain employees to collect unemployment insurance benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages. Additional information may be obtained by contacting the voluntary shared work coordinator. The employer may apply to participate in the program by completing a shared work plan application which must be approved by the department. The employer shall submit the plan to the department 30 days prior to the proposed implementation date. The employer will administer the program in cooperation with the department. Participating employees will complete the employee information form and claim for benefits and return them to the employer who will submit them to the department. Administrative penalties in force during the duration of the plan will make an employee ineligible for the program. Child support obligations will be deducted and unemployment insurance overpayments will be offset as they are for regular unemployment insurance benefits.

24.58(1) A shared work plan will last no longer than 26 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks. An employing unit is eligible for only one plan during a 24-month period.

24.58(2) Employment is considered seasonal if the production or service provided by the employment is curtailed by at least 45 percent or ceases for a four-month or longer period on an annual basis due to climatic conditions.

24.58(3) A plan which has been approved may be modified at the discretion of the department. An employer seeking modification of an approved plan must demonstrate good cause as to why the modification is necessary and must demonstrate that the factors necessitating the modification were not foreseeable at the time the plan was submitted.

24.58(4) Approval of a plan may be denied or revoked at the discretion of the department if the plan and its actual operation do not meet all the requirements stated in Iowa Code section 96.40 including, but not limited to, the providing of false or misleading information to the department, unequal treatment of any employee in the affected unit, a reduction in fringe benefits resulting from participation in the program, or failure by the employer to monitor and administer the program.

24.58(5) The employer may file in writing an appeal of a denial of approval of a plan or revocation of approval by the department within 30 days from the date the decision is issued. The employer's appeal will be forwarded to the appeals section so that a hearing may be scheduled before an administrative law judge.

24.58(6) If the employer provides as part of the plan a training program that will provide a substantive increase in the workplace and employability skills of the employee so as to reduce the potential for future periods of unemployment, the department shall consider the employee to be attending department-approved training and shall relieve the employer of charges for benefits paid to the individual attending training under the plan.

This rule is intended to implement Iowa Code section 96.40.

871—24.59(96) Child support intercept. An individual who owes a child support obligation and who has been determined to be eligible for unemployment insurance benefits under Iowa Code chapter 96, shall have this information furnished to the child support recovery unit. The department of workforce development shall deduct and withhold from benefit payments the amount which is specified by the child support recovery unit. The term "benefits" for child support intercept purposes shall be defined as meaning any compensation payable under Iowa Code chapter 96, including any amounts payable pursuant to any workforce development agreement under any federal law administered by the department.

24.59(1) *Information furnished to child support recovery unit.* The department of workforce development shall furnish information to the child support recovery unit concerning all new claims filed that are monetarily eligible for benefits under any state or federal program administered by the department.

24.59(2) *Action taken by child support recovery unit.* The child support recovery unit shall contact the claimant so that an opportunity is afforded to the claimant for a signed agreement to have a specified amount deducted and withheld from the claimant's benefits. The child support recovery unit shall submit a copy of the signed agreement to the department of workforce development and the department shall deduct and withhold the amount specified in the agreement.

24.59(3) *Garnishments.* Failure of the child support recovery unit to reach an agreement with the claimant for a specified amount to be deducted may result in the child support recovery unit initiating a garnishment action through legal process under Iowa Code chapter 642. The department of workforce development shall deduct and withhold from the claimant's benefits the amount specified. Notwithstanding section 96.15, benefits under chapter 96 are not exempt from garnishment, attachment, or execution if garnished by the child support recovery unit as established in Iowa Code section 252B.2, to satisfy the child support obligation of an individual who is eligible under this chapter. Child support obligation is defined as only those obligations which are enforced pursuant to the plan as described in Section 454 of the Social Security Act under Part D of Title IV entitled "State Plan for Child Support."

24.59(4) *Treatment of amount deducted for child support.* Any amount deducted from unemployment insurance payments for child support obligations shall be treated as if it were paid to the individual as benefits under Iowa Code chapter 96.

24.59(5) *Processing of payments.* The child support recovery unit shall furnish to the department the name and address of the designated public official to whom the amount deducted must be remitted. After the deduction, the remaining balance shall be credited to the claimant.

24.59(6) *Notice to claimant.* The department shall mail a notice to the claimant which explains the beginning date and the amount of the deduction from the claimant's weekly benefit amount which satisfies the individual's child support obligation to the child support recovery unit. This notice will be issued when the first deduction is made from the benefit payment. The notice shall explain the authority for the deduction and include the claimant's right of appeal.

24.59(7) *Appeal rights on the child support deduction.*

a. Any appeal on a child support deduction is limited to either the validity of workforce development's authority to make the deduction or the accuracy of the amount deducted.

b. The claimant will be advised to seek remedy either through the child support recovery unit or through the court system whenever the question of reasonableness or fairness of the deducted amount is raised in terms of ability to pay.

c. The department does not have the authority under Iowa Code chapter 96 to change the amount of the deduction as specified by garnishment or voluntary agreement or to adjudicate any appeal from garnishment or voluntary agreement.

This rule is intended to implement Iowa Code sections 96.3 and 96.20.

871—24.60(96) Alien. Any person who is not a citizen or a national of the United States. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States. An alien is a person owing allegiance to another country or government.

24.60(1) Section 3304(a)(14) of the Federal Unemployment Tax Act requires that the state law deny benefits which are based on services performed by an alien who has not been legally admitted to the country as a permanent resident. This provision does not deny benefits on the basis of services performed by noncitizens. It applies to services performed by individuals who do not have legal status of permanent residence in this country.

24.60(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

a. If the response is "yes," no further proof is necessary and the claimant's records are to be marked accordingly.

b. If the answer is "no," the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual's status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94 "Arrival and Departure Record" and the Forms I-151 and I-551 "Alien Registration Receipt Card." These forms are issued by the Immigration and Naturalization Service and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual's alien registration number at the time of claim filing.

c. Any or all documents presented to the department by an alien shall be subject to verification with the immigration and naturalization service. The citizenship question shall be included on the initial claim form so that the response will be subject to the provisions of rule 24.56(96), administrative penalties, and rule 871—25.10(96), prosecution on overpayments.

d. Rescinded IAB 8/6/03, effective 9/10/03.

24.60(3) Disqualification of aliens.

a. Aliens shall be disqualified for services performed unless such alien is an individual who:

(1) Was lawfully admitted for permanent residence at the time such services were performed or;

(2) Was lawfully present in this country for purpose of performing such service or;

(3) Was permanently residing in this country under color of law at the time such services were performed.

b. Color of law permanent residence is defined as:

(1) An alien admitted as a refugee under Section 207 of the Immigration and Nationality Act, 8 U.S.C. 1157, in effect after March 31, 1980;

(2) An alien granted asylum by the attorney general of the United States under Section 208 of the Immigration and Nationality Act, 8 U.S.C. 1158;

(3) An alien granted a parole into the United States for an indefinite period under Section 212(d)(5)(B) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5)(B);

(4) Reserved.

(5) An alien who entered the United States prior to June 30, 1948, and who is eligible for lawful permanent residence pursuant to Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259; or

(6) An alien who has been formally granted deferred action or nonpriority status by the immigration and naturalization service.

24.60(4) Certain nonimmigrants may perform service in this country. All nonimmigrant aliens 18 years and older are required by law to carry alien registration card Form I-94. The immigration and naturalization service places a symbol on the Form I-94 which indicates eligibility to perform service in this country.

a. Nonimmigrant aliens who are allowed to perform certain types of service are:

Class of worker		Symbol on I-94	Employment Permitted
(1)	Ambassador, Consular officers and their immediate families	A-1	May accept employment with permission from the Department of State and the Immigration Service. I-94 will be stamped: "Employment Authorized."
(2)	Other foreign government officials and their immediate families.	A-2	Same as for A-1.
(3)	Treaty trader, spouse and children Treaty investor, spouse and children	E-1 E-2	Admitted to work for a specific employer or as a sole proprietorship or partnership.
(4)	Student	F-1 M-1	May accept employment of up to 20 hours per week with permission from the Immigration Service. I-94 will be stamped: "Employment Authorized." Employment should not displace a USC or permanent resident alien.
(5)	Representatives of foreign governments to international organization such as the U.N.	G-1 G-2 G-3 G-4 G-5	May accept employment if approved by the Department of State and the Immigration Service. I-94 will be stamped: "Employment Authorized."
(6)	Temporary worker of distinguished merit and ability	H-1	Are admitted to work on a petition of an employer. Can only work for that employer unless permission is granted by the Immigration Service to change employers.
(7)	Temporary workers performing services unavailable in the U.S.	H-2	Same as for H-1.
(8)	Trainee	H-3	Same as for H-1.
(9)	Exchange visitor Spouse and children	J-1 J-2	May be admitted to work in a specific program or may be granted permission to work after entry. I-94 will be stamped: "Employment Authorized."
(10)	Fiancé or fiancee of USC entering solely to conclude valid marriage Child of a K-1	K-1 K-2	May accept employment upon approval of the Immigration Service. I-94 will be stamped: "Employment Authorized."
(11)	Intra company transferee entering to continue employment with same employer. Dependents.	L-1 L-2	Admitted upon petition by an employer. May only work for that employer. May accept employment if approved by the Immigration Service. I-94 will be stamped: "Employment Authorized."
(12)	NATO representatives	NATO-1 NATO-2 NATO-3 NATO-4 NATO-5 NATO-6 NATO-7	Dependents may accept employment with approval of the Immigration Service. I-94 will be stamped: "Employment Authorized."

b. Immigrant aliens who are not allowed to perform services are:

Class of worker		Symbol on I-94	Employment Status
(1)	Attendant, servant or personal employee of an A-1 or A-2	A-3	May not accept employment.
(2)	Temporary visitor for business	B-1	May not accept employment.

Class of worker		Symbol on I-94	Employment Status
(3)	Temporary visitor for pleasure	B-2	May not accept employment.
(4)	Alien in transit	C-1 C-2 C-3	May not accept employment.
(5)	Transit without a visa	TRWOV	May not accept employment.
(6)	Seaman	D-1 D-2	May not accept employment.
(7)	Dependent of student	F-2 M-2	May not accept employment.
(8)	Spouse or child of an H-1, H-2 or H-3	H-4	May not accept employment.
(9)	Representative of foreign information media including spouse and children	I	May not accept employment.

This rule is intended to implement Iowa Code section 96.5(10).

[Filed 12/29/55; amended 12/29/58, 6/23/59, 12/4/59, 11/22/61, 4/21/72]
[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
[Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
[Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
[Filed emergency 11/29/79—published 12/26/79, effective 11/29/79]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
[Filed 12/4/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
[Filed 4/10/81, Notice 2/18/81—published 4/29/81, effective 6/4/81]
[Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
[Filed 11/6/81, Notice 7/8/81—published 11/25/81, effective 12/30/81]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]
[Filed 8/26/82, Notice 7/21/82—published 9/15/82, effective 10/20/82]
[Filed emergency 9/10/82—published 9/29/82, effective 9/10/82][1]
[Filed 10/8/82, Notice 8/18/82—published 10/27/82, effective 12/2/82]
[Filed emergency 10/25/82—published 11/24/82, effective 10/25/82]
[Filed 1/27/83, Notice 10/13/82—published 2/16/83, effective 3/23/83]
[Filed 3/11/83, Notices 11/25/81, 5/26/82—published 3/30/83, effective 5/5/83]
[Filed 3/28/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]
[Filed emergency 3/31/83—published 4/27/83, effective 4/1/83]
[Filed emergency 6/27/83—published 7/20/83, effective 7/1/83]
[Filed emergency 8/3/83—published 8/31/83, effective 8/3/83]
[Filed 2/10/84, Notice 8/31/83—published 2/29/84, effective 4/5/84]
[Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
[Filed 4/27/84, Notice 2/29/84—published 5/23/84, effective 6/28/84]
[Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]
[Filed 8/24/84, Notice 6/20/84—published 9/12/84, effective 10/17/84]
[Filed 1/11/85, Notice 8/29/84—published 1/30/85, effective 3/6/85]
[Filed 1/14/85, Notice 10/24/84—published 1/30/85, effective 3/6/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]

[Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]
[Filed emergency 6/13/86—published 7/2/86, effective 7/1/86]
[Filed emergency 9/5/86—published 9/24/86, effective 9/5/86]
[Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
[Filed emergency 10/31/86—published 11/19/86, effective 10/31/86]
[Filed 11/7/86, Notice 8/13/86—published 12/3/86, effective 1/7/87]
[Filed 12/8/86, Notice 10/22/86—published 12/31/86, effective 2/4/87]
[Filed 1/13/87, Notice 11/19/86—published 1/28/87, effective 3/4/87]
[Filed emergency 6/12/87—published 7/1/87, effective 7/1/87]
[Filed 6/12/87, Notice 4/8/87—published 7/1/87, effective 8/5/87]
[Filed 6/12/87, Notice 5/6/87—published 7/1/87, effective 8/5/87]
[Filed 7/24/87, Notice 6/3/87—published 8/12/87, effective 9/16/87]
[Filed 9/4/87, Notice 7/1/87—published 9/23/87, effective 10/28/87]
[Filed emergency 10/30/87—published 11/18/87, effective 12/1/87]
[Filed 1/8/88, Notice 11/18/87—published 1/27/88, effective 3/2/88]
[Filed 2/19/88, Notice 12/30/87—published 3/9/88, effective 4/13/88]
[Filed 4/1/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed 6/24/88, Notice 4/20/88—published 7/13/88, effective 8/17/88]
[Filed 8/5/88, Notice 6/29/88—published 8/24/88, effective 9/28/88]
[Filed 11/14/88, Notices 8/24/88, 10/19/88—published 11/30/88, effective 1/4/89]
[Filed 11/23/88, Notice 10/19/88—published 12/14/88, effective 1/18/89]
[Filed 2/3/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]
[Filed 3/31/89, Notice 2/22/89—published 4/19/89, effective 5/24/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
[Filed 6/22/90, Notice 5/16/90—published 7/11/90, effective 8/15/90]
[Filed 9/28/90, Notice 8/22/90—published 10/17/90, effective 11/21/90]
[Filed 12/21/90, Notice 11/14/90—published 1/9/91, effective 2/13/91]
[Filed 7/30/91, Notice 6/12/91—published 8/21/91, effective 9/25/91]
[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
[Filed 5/22/92, Notice 4/15/92—published 6/10/92, effective 7/15/92]
[Filed emergency 4/23/93—published 5/12/93, effective 6/1/93]
[Filed 6/17/93, Notice 5/12/93—published 7/7/93, effective 8/11/93]
[Filed 9/10/93, Notice 8/4/93—published 9/29/93, effective 11/3/93]
[Filed 11/16/94, Notice 9/14/94—published 12/7/94, effective 1/11/95]
[Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]
[Filed 12/28/95, Notice 11/22/95—published 1/17/96, effective 2/21/96]
[Filed 8/22/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Transferred from 345—Ch 4 to 871—Ch 24 IAC Supplement 3/12/97]
[Filed 1/20/99, Notice 12/16/98—published 2/10/99, effective 3/17/99][2]
[Filed 7/9/99, Notice 6/2/99—published 7/28/99, effective 9/1/99]
[Filed 10/24/01, Notice 9/19/01—published 11/14/01, effective 12/19/01]
[Filed emergency 4/12/02—published 5/1/02, effective 4/12/02]
[Filed 7/18/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
[Filed 9/4/08, Notice 7/30/08—published 9/24/08, effective 10/29/08]

[1] See rule 345—4.50(96)

[2] Effective date of 24.26(14) and 24.26(15) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 8, 1999.

CHAPTER 71
ADMINISTRATION

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 71]

875—71.1(89A) Definitions. The definitions contained in this rule shall apply to 875—Chapters 71, 72, 73, 75, 76 and 77, and in all safety standards adopted by reference, except as otherwise expressly provided and used in these chapters.

"AECO." An accredited elevator/escalator certification organization accredited pursuant to ASME A17.7 (2007).

"Approved." Approved by the division.

"Buffer." A device designed to stop a descending car or counterweight beyond its normal limit of travel by storing or by absorbing and dissipating the kinetic energy of the car or counterweight.

"Building code." The applicable building code adopted by the city or county in which the conveyance is located. If no building code has been adopted, it shall be the code adopted in 661—Chapter 16.

"Car door or gate electric contact." An electrical device, the function of which is to prevent operation of the driving machine by the normal operating device unless the car door or gate is in the closed position.

NOTE: This function is subject to the modifications specified in 875—subrule 73.3(5).

"Car door or gate power closer." A device or assembly of devices which closes a manually opened car door or gate by power other than by hand, gravity, springs or the movement of the car.

"Car, elevator." The load-carrying unit including its platform, car frame, enclosure and car door or gate.

"Car enclosure." The top and the walls of the car resting on and attached to the car platform.

"Car frame (sling)." The supporting frame to which the car platform, upper and lower sets of guide shoes, car safety and the hoisting ropes or hoisting-rope sheaves, or the plunger of a direct plunger elevator are attached.

"Car platform." The structure which forms the floor of the car and which directly supports the load.

"Clearance, bottom car." The clear vertical distance from the pit floor to the lowest structural or mechanical part, equipment or device installed beneath the car platform, except guide shoes or rollers, safety jaw assemblies and platform aprons or guards, when the car rests on its fully compressed buffers.

"Clearance, top car." The shortest vertical distance between the top of the car crosshead, or between the top of the car where no crosshead is provided, and the nearest part of the overhead structure or any other obstruction when the car floor is level with the top terminal landing.

"Clearance, top counterweight." The shortest vertical distance between any part of the counterweight structure and the nearest part of the overhead structure or any other obstruction when the car floor is level with the bottom terminal landing.

"Control." The system governing the starting, stopping, direction of motion, acceleration, speed and retardation of the moving member.

"Controller." A device or group of devices which serves to control in a predetermined manner the apparatus to which it is connected.

"Door or gate, car or hoistway." The movable portion of the car or hoistway entrance which closes the opening providing access to the car or to the landing.

a. Door, biparting. A vertically sliding or horizontally sliding door, consisting of two or more sections so arranged that the sections or groups of sections open away from each other and so interconnected that all sections operate simultaneously.

b. Door or gate closer. A device which closes a hoistway door or a car door or gate by means of spring or gravity.

c. Door or gate, power-operated. A hoistway door or a car or gate which is opened and closed by a door or gate power operator.

d. Door or gate power-operator. A device or assembly of devices which opens a hoistway door and a car door or gate or either, by power other than by hand, gravity, springs or the movement of the car; and which closes them by power other than by hand, gravity or the movement of the car.

e. Door or gate, self-closing. A manually opened hoistway door or a car door or gate which closes when released.

f. Door or gate, manually operated. A door or gate which is opened and closed by hand.

"Emergency stop switch." A device located in the car which, when manually operated, causes the electric power to be removed from the driving-machine motor and brake of an electric elevator or from the electrically operated valves or pump motor or both of a hydraulic elevator.

"Fire-resistive construction." A method of construction which prevents or retards the passage of hot gases or flames as defined by the fire-resistance rating.

"Hoistway-door interlock." A device having two related and interdependent functions which are:

a. To prevent the operation of the driving-machine by the normal operating device unless the hoistway door is locked in the closed position.

b. To prevent the opening of the hoistway door from the landing side unless the car is within the landing zone and is either stopped or being stopped.

"Hoistway-door or gate-locking device." A device which secures a hoistway door or gate in the closed position and prevents it from being opened from the landing side except under certain specified conditions.

"Hoistway, elevator or dumbwaiter." A shaftway for the travel of one or more elevators or dumbwaiters. It includes the pit and terminates at the underside of the overhead machinery space floor or grating, or at the underside of the roof where the hoistway does not penetrate the roof.

"Hoistway enclosure." The fixed structure, consisting of vertical walls or partitions, which isolates the hoistway from all other parts of the building or from an adjacent hoistway and in which the hoistway doors and door assemblies are installed.

"Hoistway-unit system." A series of hoistway-door interlocks, hoistway-door electric contacts or hoistway-door combination mechanical locks and electric contacts, or a combination thereof, the function of which is to prevent operation of the driving machine by the normal operating device unless all hoistway doors are in the closed position and, where so required by this code, are locked in the closed position.

NOTE: This function is subject to the modifications specified in 875—subrule 73.3(5).

"Installation." A complete elevator, dumbwaiter, escalator or moving walk including its hoistway, hoistway enclosures and related construction, and all machinery and equipment necessary for its operation.

"Landing, elevator." That portion of a floor, balcony or platform used to receive and discharge passengers or freight.

"Leveling device, elevator car." Any mechanism which will, either automatically or under the control of the operator, move the car within the leveling zone toward the landing only, and automatically stop it at the landing.

"Machine, driving." The power unit which applies the energy necessary to raise and lower an elevator or dumbwaiter car or to drive an escalator or a moving walk.

"Operating device." The car switch, push button, lever or other manual device used to actuate the control.

"Pallet, moving walk." One of a series of rigid platforms which together form an articulated treadway or the support for a continuous treadway.

"Pit, elevator." That portion of hoistway extending from the threshold level of the lowest landing door to the floor at the bottom of the hoistway.

"Rated load." The load which the elevator, dumbwaiter or escalator is designed and installed to lift at the rated speed.

"Rated speed." The speed at which the elevator or dumbwaiter is designed to operate.

"Recognized elevator company." An elevator company whose agent has successfully passed the required examination issued by the commissioner.

"Safety, car or counterweight." A mechanical device attached to the car frame or to an auxiliary frame, or to the counterweight frame, to stop and hold the car or counterweight in case of predetermined over-speed or free fall, or if the hoisting ropes slacken.

"Slack-rope switch." A device which automatically causes the electric power to be removed from the elevator driving-machine motor and brake when the hoisting ropes of a winding-drum machine become slack.

"Threshold plate, moving walk." That portion of the landing adjacent to the treadway consisting of one or more stationary or slightly movable plates.

"Travel (rise)." The vertical distance between the bottom terminal landing and the top terminal landing of an elevator, dumbwaiter or escalator.

"Truck-zoning device, elevator." A device which will permit the operator in the car to move a freight elevator within the truck zone with the car door or gate and a hoistway door open.

"Wind tower lift." A conveyance designed and utilized solely for movement of trained and authorized people and small loads in wind towers built for the production of electricity.

"Working pressure." The pressure measured at the cylinder of a hydraulic elevator when lifting the car and its rated load at rated speed, or with class C2 loading when leveling up with maximum static load.

875—71.2(89A) Inspection. The rules for inspection shall apply to all conveyances.

71.2(1) Inspections may be made when the commissioner reasonably believes that a conveyance is not in compliance with the provisions of the rules. Accidents or complaints may result in inspections.

Privately inspected conveyances shall be inspected annually. Conveyance inspections by state inspectors shall be conducted annually unless the labor commissioner determines resources do not allow annual inspections. If the labor commissioner determines annual inspections of state-inspected conveyances are not feasible due to insufficient resources, the labor commissioner shall determine the inspection schedule.

a. to *d.* Rescinded IAB 11/26/03, effective 1/1/04.

71.2(2) Safety tests.

a. Complete safety tests shall be made on all inspected existing conveyances within the first year following initial inspection. Complete safety tests shall be performed on new installations before they are placed in service. The owner is responsible for having these tests performed.

b. When installing a new conveyance or performing major alterations, the owner shall notify the commissioner in writing not less than two weeks before the safety tests are to be performed on the conveyance. A division of labor services elevator inspector shall be present to check and witness all safety tests.

c. Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own conveyances. All tests shall be in accordance with ASME A17.1-2007/CSA B44-07, part 8, (except for rule 8.11.1.1); ASME A17.7-2007/CSA B44-07; or ASME A18.1(2003), part 10, as applicable. Safety tests shall be in a format approved by the commissioner. The firm or person conducting the tests shall:

(1) Submit to the commissioner on approved forms a statement certifying the results of conducted tests.

(2) On cable elevators, attach to the safety-releasing carrier a tag marked to show the date of the test, the name of the firm or person conducting the test, and whether it is a five-year or annual test.

(3) On hydraulic elevators, attach to the disconnect or the controller a tag marked to show the date of the test and the name of the firm or person conducting the test.

(4) On wheelchair lifts, attach to the disconnect a tag marked to show the date of the test and the name of the firm or person conducting the test.

71.2(3) Rescinded IAB 3/7/01, effective 4/11/01.

71.2(4) If the conveyance does not comply with the applicable rules upon completion of the inspection, the elevator inspector shall set the time for corrections to be made. The owner may petition the commissioner for additional time to make the necessary corrections. If continued operation of a

conveyance pending completion of repairs creates an imminent danger, the labor commissioner may post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance contrary to posted notice by the labor commissioner may result in additional legal proceedings pursuant to Iowa Code section 89A.10(3) or 89A.18.

71.2(5) After all major alterations, the conveyance shall be inspected by the commissioner's designee. If alterations change the classification of the conveyance, an application for a new operating permit shall be submitted.

71.2(6) All dormant conveyances shall be inspected and meet requirements of 875—Chapter 72 as a new installation before being placed in service, and conform to applicable sections of ASME A17.1 or A18.

71.2(7) The commissioner shall assign identification numbers to all conveyances which shall be on a metal tag permanently attached to the controller or electrical disconnect in the machine room. The metal tag in a wind tower lift shall be attached in the lift cage.

71.2(8) No person shall delay or impede an inspector from making inspections. Inspections shall be made during regular working hours or at a time mutually acceptable to the owner and the elevator inspection supervisor.

875—71.3(89A) Accident reports. The owner or duly authorized agent shall immediately notify the commissioner of each and every personal injury accident requiring the service of a physician or causing disability exceeding one day or causing damage to the conveyance exceeding $2,000. Notification shall be in writing, and shall specifically identify the conveyance, state identification number, owner, and description of accident. When an accident involves the failure or destruction of any part of the conveyance or the operating mechanism of a device, the use of the device is forbidden until it has been made safe and until it has been reinspected and any repairs or alterations have been approved by the commissioner. The removal of any part of the damaged conveyance or operating mechanism from the premises is forbidden until permission to do so has been granted by the commissioner.

875—71.4(89A) Registration of conveyances. The owner or authorized agent of each operable conveyance not previously registered shall register the conveyance. An application to install a new conveyance shall constitute registration. All registrations shall be submitted to the commissioner on forms available from the division of labor services and shall include all information requested by the labor commissioner. The registration for each construction personnel hoist installed prior to July 1, 2008, and in service on or after July 1, 2008, shall be completed no later than July 23, 2008, and shall include three copies of plans, drawings, or other engineering documents.

875—71.5(89A) Special inspector qualifications and limitations. Before a special inspector is licensed by the commissioner, the applicant shall submit evidence to satisfy the requirements of this rule.

71.5(1) *Education and experience.*

a. Each applicant shall certify graduation from high school or the G.E.D. equivalent.

b. Each applicant shall certify at least three years of full-time work experience in the construction, installation, repair or inspection of elevators (passenger or freight), escalators, moving walks or manlifts. The application shall be augmented with a listing of the last three years of qualifying work experience.

71.5(2) *Examination.* Each applicant shall satisfactorily pass the National Association of Elevator Safety Authorities examination. Proof of passage will be satisfied by submission of the examination card by the organization. Additionally, each applicant shall satisfactorily pass a division of labor services examination on Iowa procedures and policies including Iowa Code chapter 89A, 875—Chapters 71 to 77, and all safety standards adopted by reference.

71.5(3) *Insurance.*

a. Each applicant shall submit proof of insurance coverage insuring the applicant against liability for injury or death for any acts or omissions on the part of the applicant. The insurance policy shall be in an amount of not less than $1,000,000 for bodily injury to or death of one person in any one accident,

and, subject to the limit for one person, in an amount of not less than $5,000,000 for bodily injury to or death of two or more persons in any one accident, and in an amount of not less than $100,000 for damage to or destruction of property in any one accident.

b. Insurance coverage of an employer for whom the special inspector is employed shall be considered to comply with 71.5(3)*"a"* if the coverage provides equivalent coverage for each special inspector.

71.5(4) *Renewal of license.* Special inspector licenses shall expire one year from the date of issuance. For each renewal, the special inspector must satisfy the same requirements as a new applicant as described in these rules.

71.5(5) *Prohibited inspections.* A special inspector shall not conduct an inspection of any conveyance to satisfy the requirements of Iowa Code section 89A.6, if the conveyance is:

a. Owned or leased by the employer of the inspector,

b. Under contract for installation, alteration or maintenance by the employer of the special inspector, or

c. A wind tower lift as described in rule 875—72.12(89A).

71.5(6) *Permitted inspections.* While a special inspector may conduct various types of inspections, the commissioner shall only accept special inspector reports for annual inspections and recheck inspections. The commissioner shall not accept special inspector reports for initial inspections, acceptance inspections or accident investigation reports.

71.5(7) *Reports.* All report forms to be used by special inspectors shall be on forms approved by the commissioner. All reports shall be submitted to the commissioner within 20 days from the date of the special inspection.

71.5(8) *Suspension and revocation.* The labor commissioner may suspend or revoke any special inspector license for failure of the licensee to comply with any provision of these rules or Iowa Code chapter 89A or upon receipt of a certificate of noncompliance pursuant to Iowa Code chapter 252J or 261.

875—71.6(89A) Publications available for review. Standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa.

875—71.7(89A) Other elevator regulations. Other regulations concerning elevators are found at 661—Chapter 16. Nothing in 875—Chapters 71 through 77 shall be viewed as providing an exemption, waiver, or variance from any otherwise applicable regulation or statute.

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]
[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/20/01, Notice 6/13/01—published 12/12/01, effective 1/16/02]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed 1/25/08, Notice 11/7/07—published 2/13/08, effective 3/19/08]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed emergency 6/24/08—published 7/16/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed 9/3/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

CHAPTER 72
NEW INSTALLATIONS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 72]

875—72.1(89A) Purpose and scope. This chapter contains rules of safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of conveyances. No new or previously dormant conveyance may be installed except in accordance with the safety standards adopted by reference in this chapter.

72.1(1) Installations—January 1, 1975, to December 31, 1982. As used in this chapter, ANSI A17.1 shall mean ANSI A17.1 (1971).

72.1(2) Installations—January 1, 1983, to December 31, 1992. As used in this chapter, ANSI A17.1 shall mean ANSI A17.1 (1981). As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(3) Installations—January 1, 1993, to December 31, 2000. As used in this chapter, ASME A17.1 shall mean ASME A17.1 (1990). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1990). As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(4) Installations—January 1, 2001, to December 31, 2003. As used in this chapter, ASME A17.1 shall mean ASME A17.1 (1996 through the 1999 addenda). As used in this chapter, ASME A18.1 shall mean ASME A18.1 (1999), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1998). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1999).

72.1(5) Installations—January 1, 2004, to April 4, 2006. As used in this chapter, ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda). As used in this chapter, ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1998). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

72.1(6) Installations—April 5, 2006, through July 22, 2008. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003), except for rule 407.4.6.2.2. As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(7) Installations—on or after July 23, 2008. This subrule applies to installations on or after July 23, 2008. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07. As used in this chapter, ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003), except for rule 407.4.6.2.2. As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(8) As used in this rule, the word "installed" refers to the date of a written contractual agreement to install a new conveyance or reinstate a dormant conveyance.

875—72.2(89A) Definitions. The definitions contained in Part 1 of ASME A17.1, Part 1 of ASME A18.1, and Chapter 1 of ANSI A117.1, and any other standard adopted herein by reference shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A and these rules.

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

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

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

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

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

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

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

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

875—72.11(89A) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks. The provisions contained in ASME A17.1, sections 8.10 and 8.11, except section 8.11.1.1, are adopted by reference.

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

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

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

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

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

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

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

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

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

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

a. The unique identifier of the wind tower.

b. The name of the wind tower owner and contact information for the owner's representative.

c. The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.

d. The location of the wind farm.

e. Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.

f. The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

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

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

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

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

a. Issued a Certificate of Conformance for the model or series of wind tower lifts,

b. Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or

c. Determined that modifications to the wind tower lifts are necessary.

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

a. Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.

b. Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.

c. Interior floor and cage framework shall appear to be structurally sound.

d. Enclosure signage recommended by the manufacturer shall be in place.

e. Manufacturer's data plate shall be visible.

f. Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.

g. Guide shoes shall appear to be structurally sound and undamaged.

h. Suspended power cords and strain relief devices shall reveal no visible damage.

i. Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.

j. Overspeed device shall successfully pass a full-load test.

k. Overload device shall successfully pass an overload test according to the manufacturer's recommendations.

l. Wire rope, safety rope, and guide rope shall show no evidence of wear.

m. Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.

n. The wind tower lift shall not drift when subjected to a static full load.

o. Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.

p. Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.

q. Power cord catch basket shall pass a visual inspection.

r. Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.

s. A communication device, if installed in the car, shall be operable.

t. Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

72.12(10) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

875—72.13(89A) Alterations, repairs, replacements and maintenance. Rescinded IAB 11/26/03, effective 1/1/04.

875—72.14(89A) Design data and formulas. Rescinded IAB 11/26/03, effective 1/1/04.

875—72.15(89A) Power-operated special purpose elevators. The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

875—72.16(89A) Inclined and vertical wheelchair lifts. The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

875—72.17(89A) Hand-powered elevators. Hand-powered elevators shall not be installed after January 1, 1983.

875—72.18(89A) Accommodating the physically disabled. Renumbered as 875—72.3(89A), IAB 11/26/03, effective 1/1/04.

875—72.19(89A) Limited-use/limited-application elevators. The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

875—72.20(89A) Rack and pinion, screw-column elevators. The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

875—72.21(89A) Inclined elevators. The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

875—72.22(89A) Material lift elevators. Material lifts existing at a location prior to January 1, 1975, are not regulated or inspected by the labor commissioner.

875—72.23(89A) Elevators used for construction. The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

875—72.24(89A) Construction personnel hoists. The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 4/17/87—published 5/6/87, effective 4/17/87]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]

[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed 12/11/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

CHAPTER 75
FEES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 11/19/97, see 347—Ch 75]

875—75.1(89A) New installations.

75.1(1) Installation inspection and permit fees for elevators shall be as follows: up to and including four landings—$500; five or more landings—$600. Installation inspection and permit fees for escalators and moving walks shall be $500. These fees include initial inspection and first-year operating permit. If the conveyance does not comply at the time of the acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $200 for each additional inspection. The installation inspection and permit fees shall be remitted to the division of labor services when the application is filed.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of $100 per hour, including travel time, with a minimum charge of $200.

75.1(2) Installation inspection and permit fees for dumbwaiters and inclined or vertical wheelchair lifts shall be $350. These fees include initial inspection and first-year permit. If the conveyance does not comply at the time of the acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $200 for each additional inspection. The installation inspection and permit fees shall be remitted to the division of labor services when the application is filed.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of $100 per hour, including travel time, with a minimum charge of $200.

75.1(3) Installation inspection and permit fees for each wind tower lift as described in rule 875—72.12(89A) shall be $250. This fee includes the initial inspection; the first-year operating permit; and the issuance of a single installation permit for all of the identical wind tower lifts installed in identical wind towers in a single wind farm as the result of one construction contract. This fee is applicable to all wind tower lifts, regardless of the date of installation. If a wind tower lift is not in compliance at the time of the installation inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $150 for each additional inspection.

75.1(4) Construction personnel hoists.

a. Installation inspection and permit fees for construction personnel hoists installed on or after July 1, 2008, shall be $500 if the completed construction personnel hoist is planned for four or fewer landings and $600 if the completed construction personnel hoist is planned for five or more landings. This fee includes the initial inspection and first-year operating permit.

b. If the plans call for a construction personnel hoist to be extended to additional floors after it is initially put into service, each extension shall be considered an alteration. The cost for each alteration shall be $150, and the installation permit for construction personnel hoists shall also serve as an alteration permit for each of the planned extensions as reported to the labor commissioner.

c. The fees established by paragraphs *"a"* and *"b"* of this subrule shall be remitted to the division of labor services when the installation permit application is filed.

d. If the construction personnel hoist does not comply at the time of inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $150 for each additional inspection.

e. Consultative inspections on construction personnel hoists may be performed at the discretion of the labor commissioner for a fee of $100 per hour, including travel time, with a minimum charge of $200.

75.1(5) The cost of reviewing sectional plans or prints once is included in the above fees. Print revisions submitted to the division shall be subject to an additional fee of $50.

875—75.2(89A) Alterations.

75.2(1) Alteration inspection and permit fees shall be $200 for alterations up to and including 25 percent; $400 for alterations of 26 percent up to and including 50 percent; and the fee schedule for new installations shall apply for alterations over 50 percent. The alterations table in rule 875—76.7(89A)

shall be used to determine the change percentage. These fees include initial inspection and the alteration permit fees.

75.2(2) If the alteration does not comply at the time of an acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $200 for each additional inspection.

75.2(3) Except as described in subrules 75.2(4) to 75.2(6), the alteration inspection and permit fees shall be remitted to the division of labor services when the application is filed.

75.2(4) The alteration permit application fee and alteration inspection fee for construction personnel hoists installed after July 1, 2008, are included with the installation application fee as described in rule 75.1(89A).

75.2(5) For construction personnel hoists installed prior to July 1, 2008, and extended to additional floors on or after July 1, 2008, the combined fee for the alteration inspection and the alteration permit shall be $150.

75.2(6) Consultative inspections associated with alteration permits may be performed at the discretion of the labor commissioner for a fee of $100 per hour, including travel time, with a minimum charge of $200.

875—75.3(89A) Periodic (annual) inspections.

75.3(1) The periodic (annual) inspection fee for elevators, escalators, moving walks, or dumbwaiters and inclined or vertical wheelchair lifts shall be as follows: for each elevator—$75; for each escalator—$60; for each moving walk—$60; for each dumbwaiter—$60; for each hand-powered elevator—$60; for each inclined or vertical wheelchair lift—$60. This fee includes only the inspection. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $200. Fees shall be remitted to the division of labor services within 30 days of the date of inspection.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of $100 per hour, including travel time, with a minimum charge of $200.

75.3(2) Tower elevator and construction personnel hoist inspections. The periodic (annual) inspection fee for tower elevators and construction personnel hoists shall be $300. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $300. Each consultative inspection fee is $300.

75.3(3) Wind tower lift inspections. The periodic (annual) inspection fee for each wind tower lift shall be $150. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $150. The fee for each consultative inspection is $150.

875—75.4(89A) Operating permits. The annual operating permit fee shall be as follows: for each conveyance—$50.

875—75.5(89A) Construction (temporary operating) permits. The construction (temporary operating) permit fee shall be as follows: for a conveyance—$100. This fee includes initial inspection and the construction (temporary operating) permit fee. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of $100 for each additional inspection. Fees shall be remitted to the division of labor services when the application for a construction (temporary operating) permit is filed.

875—75.6(89A) Extension of time for permit. The extension of time fee for construction (temporary operating) permit shall be as follows: for each conveyance—$50.

875—75.7(89A) Special inspector license. The special inspector license annual fee shall be $60. The fee must be paid for each renewal.

875—75.8(89A) Safety test certification for own conveyance. The annual certification fee for performing safety tests on one's own or an employer's conveyance shall be $25. The certification fee must be paid for each renewal.

These rules are intended to implement Iowa Code section 89A.13.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 11/7/80, Notice 10/1/80—published 11/26/80, effective 12/31/80]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 1/1/93]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]
[Filed emergency 12/2/93 after Notice 10/27/93—published 12/22/93, effective 1/1/94]
[Filed 10/31/97, Notice 9/24/97—published 11/19/97, effective 1/1/98]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 6/2/05, Notice 4/27/05—published 6/22/05, effective 7/27/05]
[Filed 12/9/05, Notice 10/12/05—published 1/4/06, effective 2/8/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed emergency 6/24/08—published 7/16/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed 9/3/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

CHAPTER 76
PERMITS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 76]

875—76.1(89A) Owner's responsibility. The procuring of new installation, major alteration permits, operating permits, and the payment of all fees shall be the responsibility of the owner. No installation or alteration shall begin until approved and the permit has been issued. Failure to obtain the appropriate permit prior to installation or alteration may, at the discretion of the labor commissioner, result in the automatic assessment of a reinspection fee under 875—subrule 75.1(1) and a referral to the attorney general for prosecution of criminal penalties described in Iowa Code section 89A.17.

875—76.2(89A) Information to be submitted. When application is made to the commissioner for a new installation permit, the following information shall be submitted in writing:

76.2(1) Sectional plan of car and hoistway.

76.2(2) Sectional plan of machine room.

76.2(3) Sectional elevation of hoistway and machine room including the pit, bottom and top clearance of car and counterweights.

76.2(4) Size and weight of rails and guide rail bracket spacing.

76.2(5) The estimated maximum vertical forces on the guide rails on application of the safety device.

76.2(6) In the case of freight elevators for class B or C loading, the horizontal forces on the guide rail faces during loading and unloading, and the estimated maximum horizontal forces in a post-wise direction on the guide rail faces on the application of the safety device.

76.2(7) The size and weight per foot of any rail reinforcements where provided.

76.2(8) Job specifications.

76.2(9) Contract price of the installation.

76.2(10) For a conveyance covered by ASME 17.7, a complete copy of the Code Compliance Document with attachments as described by ASME A17.7, Section 2.10, and a complete copy of the Certificate of Conformance with attachments as described by ASME A17.7, Appendix I, Section 4.5.2.

76.2(11) For a construction personnel hoist, the planned dates for the addition of floors to the range of the construction personnel hoist, and the number of additional floors to be added in each phase.

875—76.3(89A) Alteration permit application. When application is made for an alteration permit, drawings and specifications of all changes to be made shall be submitted. For construction personnel hoists, if a complete installation permit application with blueprints was submitted to the labor commissioner, notice of intent to put additional floors into service shall be provided to the labor commissioner at least seven days in advance. For a construction personnel hoist installed prior to July 1, 2008, without an installation permit, a completed alteration permit shall be submitted to the labor commissioner at least seven days before the construction personnel hoist is ready for inspection each time additional floors are added.

875—76.4(89A) Placement of operating permits—display of state identification number.

76.4(1) Current operating permits or copies of current operating permits shall be displayed in elevator car enclosures.

76.4(2) Escalator, moving walk, wind tower lift, and wheelchair lift operating permits shall be displayed on or near the unit for which they are issued.

76.4(3) Operating permits for dumbwaiters shall be displayed on the hoistway adjacent to the main floor door.

76.4(4) The state identification number of each conveyance shall be conspicuously displayed on or near the conveyance and adjacent to a telephone number for the reporting of accidents to the owner of the conveyance.

875—76.5(89A) Posting of installation or major alteration permit.

76.5(1) All installation or major alteration permits shall be kept at the worksite and be made available upon request. All the wind towers covered by a single installation permit shall be considered a single worksite, and posting one copy of the installation permit at the construction project office shall be sufficient.

76.5(2) The alteration permit shall expire upon completion of alteration as described in the permit application.

875—76.6(89A) Elevator construction permit (temporary operating).

76.6(1) The commissioner may permit the temporary use of any elevator for passenger or freight service during installation, alteration or during the construction period, only for materials and those persons performing construction work on the elevator or building being constructed, by issuing a construction permit for each class of service upon the application of the owner. Elevators used for construction shall not be accessible to the general public unless the elevators comply with ASME A17.1, parts I, II, and III, and are issued an operating permit.

76.6(2) Such construction permits shall not be issued until the elevator has been tested under rated load, and the car safety and terminal stopping equipment have been tested, in order to determine the safety of the equipment for construction purposes, and until permanent or temporary guards or enclosures are placed on the car and around the hoistway at the landing entrance on each floor.

76.6(3) Landing entrance guards shall be provided with locks which can be released from the hoistway side only.

76.6(4) Automatic or continuous pressure elevators shall not be placed in temporary operation from the landing push buttons unless door-locking devices or interlocks required by ASME A17.1 are installed and operative.

76.6(5) Where a construction permit is issued, a notice bearing the information that the equipment has not been finally approved shall be conspicuously posted on, near, or visible from each entrance to such elevator.

76.6(6) Such permits shall be issued for a period of 90 days and may be extended upon application to the commissioner.

76.6(7) Failure to comply with these provisions may result in the revocation of the construction permit.

875—76.7(89A) Alterations. When any combination of alterations or changes is made constituting more than 50 percent of the elevator construction, the entire elevator shall be brought into compliance with ASME A17.1-2004, A17.1a-2005 and A17.1S-2005 and shall be deemed a new elevator. Alterations or changes constitute more than 50 percent of the construction if they exceed 50 percent of the total points according to the following table:

Elevator Component	Hydraulic	Traction
Controller	31	26
Floor selector	4	8
Drive-MG-SCR	-	13
Main machine	-	15
Machine motor	5	7
Hoist ropes	4	8
Governor	4	7
Platform	9	9
Car fixtures	9	8
Cab	10	10
Safeties	6	7
Door operator	12	12

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Hoistway door panels	11	10
Hoistway door frames	11	10
Hoistway hangers & tracks	11	11
Hoistway door locks	8	9
Traveling cable	6	9
Hoistway wiring	8	6
Hall fixtures	8	10
Buffers	6	6
Counterweight	4	7
Rails & brackets	10	18
Car & cwt. guides	6	6
Pump	9	-
Valve	9	-
Tank	9	-
Plunger	14	-
Cylinder	18	-
Total Points	242	233

If any of the above elevator components do not apply, the points for the component(s) shall be subtracted from the total points before a determination of whether the alteration or change constitutes 50 percent is made.

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]
[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 6/2/05, Notice 4/27/05—published 6/22/05, effective 7/27/05]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed emergency 6/24/08—published 7/16/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed 9/3/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

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SALE BARNS
See LIVESTOCK: Movement: Markets

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