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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

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

Agriculture and Land Stewardship Department[21]

- Replace Chapter 46
- Replace Chapter 50
- Replace Chapter 85

Insurance Division[191]

- Replace Analysis
- Replace Chapter 10
- Replace Reserved Chapter 13 with Chapter 13
- Replace Chapter 58

Real Estate Commission[193E]

- Replace Chapter 6
- Replace Chapter 14

Ethics and Campaign Disclosure Board, Iowa[351]

- Replace Analysis
- Replace Chapter 1
- Replace Chapter 4
- Replace Chapter 7

Human Services Department[441]

- Replace Chapter 86

Inspections and Appeals Department[481]

- Replace Analysis
- Replace Reserved Chapter 52 with Chapter 52

Homeland Security and Emergency Management Division[605]

- Replace Chapter 10

Public Safety Department[661]

- Replace Analysis
- Replace Reserved Chapter 4 with Reserved Chapters 4 and 5
- Remove Chapter 5
- Replace Reserved Chapters 175 to 200 with Reserved Chapters 175 to 199
- Insert Chapter 200
- Replace Chapters 201 and 202

Replace Chapter 205

Replace Reserved Chapters 232 to 250 with Reserved Chapters 232 to 234

Insert Chapter 235 and Reserved Chapters 236 to 250

Replace Chapter 251

Replace Chapters 300 and 301

Replace Chapter 303

Replace Chapter 350

Labor Services Division[875]

Replace Analysis

Replace Chapter 32

Replace Chapter 80

Replace Chapters 90 to 94

Replace Chapter 96

Index

Replace “B”

CHAPTER 46
CROP PESTS

[Prior to 7/27/88 see Agriculture Department 30—Ch 26]

21—46.1(177A) Nursery stock. Hardy, cultivated or wild woody plants, such as trees, evergreens, shrubs and vines, and small fruits such as strawberries and raspberries. Nursery stock dug from the wild and offered for sale or movement should be so labeled.

21—46.2(177A) Hardy. Capable of surviving the normal winter temperatures of Iowa.

21—46.3(177A) Person. Any individual or combination of individuals, corporation, society, association, partnership, institution or public agency.

21—46.4(177A) Nursery growers. A person who grows or propagates nursery stock for sale or distribution.

21—46.5(177A) Nursery. Any grounds or premises, on or in which nursery stock is propagated or grown for sale or distribution, including any grounds or premises on or in which nursery stock is being fumigated, treated, stored or packed for sale or movement.

21—46.6(177A) Nursery dealer. Any person who does not grow nursery stock, but who obtains, takes title to and possession of nursery stock, and moves it or offers it for movement to the ownership of other persons.

21—46.7(177A) Out-of-state nursery growers and nursery dealers. Any person desiring to ship nursery stock into Iowa shall:

46.7(1) File with the state entomologist's office an official certificate of inspection showing that the nursery from which the plants originated has been inspected and certified by the plant regulatory officials of that state. This information may be communicated to the state entomologist's office by the filing of an official list of certified nurseries by the plant regulatory official of the state of origin.

46.7(2) Provide a valid copy of the certificate of inspection of the state of origin which will accompany each shipment of nursery stock into Iowa.

46.7(3) No fee shall be charged out-of-state nursery growers or dealers who ship nursery stock directly from their out-of-state location to Iowa purchasers, unless the state in which the shipping nursery is located charges a fee to Iowa nursery growers and dealers. In this case, a fee equivalent to that charged Iowa nursery growers or dealers shipping into that state shall be charged.

21—46.8(177A) Nursery inspection. Each nursery within the state of Iowa shall be inspected at least annually to ascertain if they are infested with insect pests or infected with plant diseases. If insect pests or diseases are found, control or cleanup measures shall be required. Certificates will be issued only for stock found apparently free from insect pests and diseases. Cleanup measures will be required if excessive weeds in the nursery make an adequate inspection impossible.

21—46.9(177A) Nursery dealer certificate. Nursery dealers shall secure a nursery dealer's certificate from the state entomologist before they carry on their business within the state. Each separate sales location shall operate under its own certificate. Nurseries that sell stock from more than one location shall obtain a nursery dealer certificate for those additional locations.

21—46.10(177A) Proper facilities. Individuals, firms or corporations who offer nursery stock for sale at nursery grounds, stores, roadside stands, public market places, or any other place, shall have and maintain proper facilities for keeping all nursery stock in a viable condition; shall keep such stock in a viable condition pending sale; and shall display at the sales location the proper kind of certificate showing that they have the right to offer nursery stock for sale. Proper facilities should include a storage and

display area for the nursery stock which prevents excessive drying of plant tissues and a ready access to a water supply.

21—46.11(177A) Storage and display. All nursery stock offered for sale or distribution shall be stored and displayed as follows:

46.11(1) Balled and burlapped stock shall be kept moist at all times and shall be kept in sawdust, shingle tow, peat, sphagnum moss or other moisture-holding material not toxic to plants, of sufficient depth to cover the top of the ball of earth.

46.11(2) Container stock shall be watered sufficiently to maintain the viability and vigor of the stock. Potting soil shall be maintained at a depth so as to cover all roots of the plants.

46.11(3) Bare-root stock shall be kept under conditions of temperature and moisture to retard etiolated or otherwise abnormal growth and maintain viability. Moisture must be supplied to the root system by high humidity conditions in storage or by covering the roots with soil, sawdust, peat, wood shavings or other moisture-holding materials not toxic to plants. Such material is to be kept moist at all times. Roots of healed-in stock must be covered with well packed soil at least one inch above the crown of the plant.

46.11(4) Stock with roots packaged in moisture-retaining plastic, peat, wood shavings or other material not toxic to plants must be stored and displayed under conditions that will retard etiolated or otherwise abnormal growth and will ensure an adequate supply of moisture to the roots at all times.

46.11(5) Nursery stock offered for sale or movement at locations with hard surfaced areas, such as concrete or asphalt parking lots, must not be in constant, direct contact with the hard surfaced area; but must be so displayed that the roots of the stock are protected from excessive heat, drying, or other adverse conditions associated with contact from hard surfaced areas.

21—46.12(177A) Nursery stock viability qualifications. All nursery stock offered for sale or distribution, not meeting the following minimum indices of viability, shall be removed from public view and not offered for sale.

46.12(1) Woody stemmed deciduous stock shall have moist, green, cambium tissue in the stems and branches and shall have viable buds or normal, green, unwilted growth. Etiolated growth from individual buds shall be no more than four inches. In the case of rose bushes, each stem must show moist, green, undamaged cambium in at least the first six inches above the graft. Any single stem on a rose bush not meeting this specification shall disqualify the entire plant; however, a bush may be pruned to remove dead or damaged canes and the plant can then be sold at the proper grade according to Standards of the American Association of Nurserymen.

46.12(2) Balled and burlapped stock in addition to 46.12(1) above regarding aerial parts, shall have unbroken earth balls of a size specified by the American Association of Nurserymen's American Standard for Nursery Stock.

46.12(3) Colored waxes or other materials used to coat the aerial parts of plants that change the appearance of the plant surface so as to prevent adequate inspection, are prohibited.

21—46.13(177A) Certificates. Certificates issued to nursery growers or nursery dealers are nontransferable and are for the exclusive use of the one to whom they are issued.

21—46.14(177A) Miscellaneous and service inspections. Any person wanting to move plants or plant products to any destination outside of Iowa may apply to the state entomologist for inspection of the plants or plant products and certification as to the presence or absence of plant pests and diseases likely to prevent the acceptance of those plants or plant products at the destination. The application must be made as far in advance as possible. Upon receipt of the application, the state entomologist will arrange for the inspection to be made as early as conveniently practical. The plants or plant products to be inspected shall be assembled and held in such a manner as to enable a proper and adequate inspection to be made. If destination requirements regarding plant pests and diseases are met, certification can be

made in accordance with Iowa Code section 177A.9. Fees for the inspection will be set to cover in full any expenses incurred by the state entomologist or authorized inspectors who made the inspection.

Any plants or plant parts capable of propagation, not classified as nursery stock, which originate outside the state, may be subject to inspection to determine whether those plants or plant parts are infested or infected with insect pests or diseases. If inspections reveal the presence of insect pests or diseases, such plants or plant parts will be treated or destroyed. If no infestations are discovered, a certification report may be issued by the inspector to the person offering the plants or plant parts for sale or movement. Inspection of these plants or plant parts shall be subject to the same rules and fees as nursery stock.

21—46.15(177A) Insect pests and diseases. To comply with Iowa Code section 177A.5, there are listed below the insect pests and diseases which the state entomologist finds should be prevented from being introduced into or disseminated within Iowa, in order to safeguard the plants and plant products likely to become infested or infected with such insect pests and diseases.

Insect pests:

Asian gypsy moth (*Lymantria dispar dispar* (Linnaeus))
 Asian longhorned beetle (*Anoplophora glabripennis*)
 Blue alfalfa aphid (*Acyrtosiphon kondoi*)
 Emerald ash borer (*Agrilus planipennis*)
 European woodwasp (*Sirex noctilio*)
 Gypsy (European) moth (*Lymantria dispar*)
 Gypsy moth (European X Asian) (*Lymantria dispar x hybrid*)
 Khapra beetle (*Trogoderma granarium*)
 Rosy (pink) gypsy moth (*Lymantria mathura*)
 Viburnum leaf beetle (*Pyrrhalta viburni*)
 Walnut twig beetle (*Pityophthorus juglandis*)

Diseases:

Black stem rust of wheat (*Puccinia graminis*)
 Corn late wilt or black bundle disease of corn (*Harpophora (Cephalosporium) maydis*)
 Oat cyst nematode (*Bidara avenae*)
 Golden nematode (*Globodera rostochiensis*)
 Corn cyst nematode (*Heterodera zaeae*)
 Columbia root-knot nematode (*Meloidogyne chitwoodi*)
 Mexican corn cyst (*Punctodera chalconensis*)
 Head smut of corn (*Sphacelotheca reiliana*)
 Sudden oak death (*Phytophthora ramorum*)
 Thousand cankers disease of black walnut (*Geosmithia*, sp.)
 White potato cyst nematode (*Globodera pallida*)

[ARC 8293B, IAB 11/18/09, effective 12/23/09]

These rules are intended to implement Iowa Code chapter 177A.

[Filed 1/15/82, Notice 12/9/81—published 2/3/82, effective 3/10/82]

[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

[Filed ARC 8293B (Notice ARC 8022B, IAB 7/29/09), IAB 11/18/09, effective 12/23/09]

CHAPTER 50
WOMEN, INFANTS, AND CHILDREN/FARMERS' MARKET NUTRITION PROGRAM
AND SENIOR FARMERS' MARKET NUTRITION PROGRAM

21—50.1(159) Authority and scope. This chapter establishes procedures to govern the administration of a farmers' market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with 2007 Iowa Acts, House File 846.

Information may be obtained by contacting the Horticulture and Farmers' Market Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, telephone (515)281-5321.

21—50.2(159) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are severable.

21—50.3(159) Definitions. For the purposes of this chapter:

"Application" means a request made by an individual to the department for vendor certification in the FMNP/SFMNP on a form provided by the horticulture and farmers' market bureau of the department.

"Authorized CSA" means a community supported agriculture program that is authorized by the department for the exchange of SFMNP funds for eligible foods.

"Authorized farmers' market" means a farmers' market site authorized by the department for the exchange of vouchers for eligible foods.

"Authorized farmstand" means a farmstand site authorized by the department for the exchange of vouchers for eligible foods.

"Certified vendor" means an individual who has met all FMNP/SFMNP conditions as outlined by the department and who is guaranteed payment on all vouchers accepted, provided compliance is maintained by that individual regarding all FMNP/SFMNP rules and procedures as outlined in the vendor certification handbook. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be certified to participate in the FMNP/SFMNP, except individuals employed by a farmer otherwise qualified under these rules.

"Certified vendor identification card" means a department-issued card that shall be presented by the certified vendor during each occurrence of voucher deposit in the financial institution of certified vendor choice. This card shall remain the sole property of the department with forfeiture by the certified vendor to the department in the event of disqualification or suspension.

"Certified vendor identification sign" means department-issued signage which shall be clearly displayed by the certified vendor at all times the vendor accepts or intends to accept vouchers in an authorized farmers' market/farmstand. Signs shall remain the sole property of the department with forfeiture by the certified vendor to the department in the event of disqualification or suspension.

"Certified vendor number" means a unique identification number issued for a designated period by the department and assigned to an individual whom the department has identified as a certified vendor. The certified vendor number shall be affixed to the certified vendor identification card and the certified vendor identification sign, and the certified vendor shall stamp the number on each voucher that is submitted for deposit. An individual shall be assigned no more than one certification number for any designated period.

"Certified vendor stall" means all of the area in an authorized farmers' market that is dedicated to a certified vendor for the purpose of displaying and offering product for sale. Certified vendors are permitted only one certified vendor stall per market. The only exceptions shall be:

1. If the certified vendor elects not to promote any of the area as FMNP/SFMNP for an entire farmers' market day; or

2. If the certified vendor elects to exclude a portion of the space by maintaining a distance of separation from the certified vendor stall by a minimum of two farmers' market vendors who are neither affiliated with nor related to the certified vendor and who are actively participating in the farmers' market on the given day. An excluded area shall be operated independently of the certified vendor stall.

These exceptions shall hold only when the vendor neither accepts nor intends to accept vouchers.

"Certified vendor stamp" means a department-issued stamp of the certified vendor number.

"Community supported agriculture" means a program under which a farmer or group of farmers grows food for a group of shareholders (or subscribers) who pledge to buy a portion of the farmer's crop(s) for that season.

"Days" means calendar days.

"Department" means the Iowa department of agriculture and land stewardship.

"Designated distribution site" means a site authorized by the department for distribution of vouchers by the local agency.

"Distribution" means the process outlined by the department and the means by which local agencies actually dispense vouchers to eligible recipients.

"Eligible foods" means fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Locally produced, unpasteurized, pure honey is an eligible food only for the recipients of SFMNP benefits.

"Farmers' market" means a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for a group of farmers to sell locally grown fresh produce directly to consumers, and where the majority of products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

"Farmstand" means a consistent site throughout the season, in which a single individual farmer sells the farmer's produce directly to consumers.

"FMNP" means the women, infants, and children farmers' market nutrition program.

"Fresh produce" means fruits and vegetables that have not been processed in any manner. This term does not include such items as dried fruits and vegetables, potted or dried herbs, wild rice, nuts of any kind including raw nuts, popcorn, fruit or vegetable plants/seedlings, dried beans/peas, seeds/grains, flowers, maple syrup, cider, eggs, meat, cheese, and seafood.

"Local agency" means a nonprofit entity that certifies eligible recipients, issues FMNP/SFMNP vouchers for the distribution of eligible foods through CSA programs, or provides nutritional education or information on operational aspects of the FMNP/SFMNP to recipients and which has entered into a contract with the department.

"Locally grown" means produce that has a traceable point of origin either within Iowa or in a neighboring state in a county adjacent to Iowa's border.

"Posted hours and days" means the operational time frames stated in assurances submitted by a representative, who has the legal authority to obligate the farmers' market/farmstand, which include a beginning and an ending time and date for each year of operation.

"Proxy" means an individual authorized by an eligible recipient to act on the recipient's behalf, including application for, receipt of, or use of vouchers or acceptance of SFMNP foods provided through a CSA program as long as the benefits are ultimately received by the recipient. Minors shall not be used as proxies. A proxy may act on behalf of more than one eligible recipient only if the proxy is directly related to the additional eligible recipients.

"Recipient" means a person chosen by the Iowa department of agriculture and land stewardship to receive FMNP/SFMNP benefits.

1. To receive FMNP benefits, such person must be a woman, infant over four months of age, or child who receives benefits under the WIC program or is on the waiting list to receive benefits under the WIC program.

2. To receive SFMNP benefits, such person must meet the senior eligibility criteria of the SFMNP in Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

“*Season*” means a clearly delineated period of time during a given year that has a beginning date and ending date, as specified by the department, which correlates with a major portion of the harvest period for locally grown fresh produce.

“*Secretary*” means the secretary of agriculture for the state of Iowa.

“*Service area*” means the geographic area that encompasses all of the designated distribution sites and authorized farmers’ markets, farmstands, and CSAs within Iowa for a designated period.

“*SFMNP*” means the senior farmers’ market nutrition program.

“*Shareholder*” means an SFMNP recipient for whom a full or partial share in a community supported agriculture program has been purchased by the department, and who receives SFMNP benefits in the form of actual eligible foods rather than vouchers that must be exchanged for eligible foods at farmers’ markets or farmstands.

“*USDA-FNS*” means the United States Department of Agriculture-Food and Nutrition Service.

“*Vendor certification handbook*” means a publication by the department that is based on USDA-FNS regulations and guidelines, addresses all FMNP/SFMNP rules and procedures applicable to a certified vendor, and provides the basis for vendor training. A copy of the publication shall be issued to each individual after certification training. New editions supersede all previous editions.

“*Voucher*” means a negotiable instrument issued by the department to recipients that is redeemable only for eligible foods from certified vendors at authorized farmers’ markets/farmstands with a limited negotiable period that directly correlates to the season designated by the department.

“*WIC*” means the Special Supplemental Food Program for Women, Infants and Children, as administered by the Iowa department of public health.

[ARC 8308B, IAB 11/18/09, effective 12/23/09]

21—50.4(159) Program description and goals. The women, infants, and children/farmers’ market nutrition program (FMNP) and the senior farmers’ market nutrition program (SFMNP) are jointly funded by the state of Iowa and the United States Department of Agriculture.

50.4(1) The dual purposes of the FMNP are:

a. To provide resources in the form of fresh, nutritious, unprepared foods (fruits and vegetables) from farmers’ markets to women, infants, and children who are nutritionally at risk and who are participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or are on the waiting list for the WIC program, and

b. To expand the awareness of, use of and sales at farmers’ markets.

50.4(2) The purposes of the SFMNP are:

a. To provide resources in the form of fresh, nutritious, unprepared locally grown fruits, vegetables and herbs from farmers’ markets, roadside stands, and community supported agriculture (CSA) programs to low-income seniors;

b. To increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers’ markets, roadside stands, and CSAs; and

c. To develop or aid in the development of new and additional farmers’ markets, roadside stands, and CSAs.

21—50.5(159) Administration and agreements.

50.5(1) The program shall be administered by the secretary or by the secretary’s designee.

50.5(2) The department shall maintain all conditions as outlined in the farmers’ market nutrition program/senior farmers’ market nutrition program state plan submitted to USDA-FNS.

21—50.6(159) Distribution of benefits.

50.6(1) Iowa department of public health WIC client screening processes and records shall provide the basis for identifying recipients eligible for receipt of FMNP vouchers. The department may contract with local agencies to certify eligible recipients and distribute SFMNP vouchers. Senior recipient eligibility criteria shall conform to Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

50.6(2) Local agencies shall distribute vouchers at designated distribution sites to recipients in the manner specified by the department in the procedures guide for distribution site staff. Local agency services shall include, but not be limited to, ensuring that:

- a. Each recipient is issued vouchers during each distribution as authorized by the department.
- b. The voucher serial numbers issued to the recipient correspond to the numbers in the distribution registry.
- c. A proxy is allowed to act on behalf of a recipient.
- d. Each recipient is provided a thorough explanation of program guidelines and recipient responsibility as outlined by the department.
- e. All FMNP/SFMNP support materials are put into use as outlined by the department.
- f. Accurate and complete records of all related FMNP/SFMNP activities in the possession of a local agency are maintained and retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the report pertains. In the event of litigation or audit findings, the records shall be retained until all issues arising from such actions have been resolved or until the end of the prescribed retention period, whichever is later.
- g. All agency records pertaining to this program are made available for inspection to representatives of USDA, the Comptroller General of the United States, the state auditor, the department, and other agencies working under contract with the department as necessary, at any time during normal business hours, and as frequently as is deemed necessary for inspection and audit. Otherwise, confidentiality of personal information on all recipients participating in the program shall be maintained at all times.

21—50.7(159) Recipient responsibilities. Recipients shall be responsible for, but not limited to, all of the following:

1. Qualifying under FMNP/SFMNP guidelines and attending a designated distribution site when vouchers are distributed.
2. Properly signing a voucher(s) at time of use in the presence of the certified vendor who accepts a voucher in exchange for eligible foods.
3. Using vouchers only to purchase eligible foods from certified vendors who display certified vendor identification signs at authorized farmers' markets/farmstands.
4. Redeeming vouchers on or before the expiration date printed on the face of the voucher, or surrendering all claim to the value of vouchers that remain unredeemed.
5. Ensuring vouchers received are not assigned to any other party other than to a proxy.
6. Reporting violations or problems to the department or the local agency.
7. Reporting all incidents of lost or stolen vouchers to the local agency.

21—50.8(159) Farmers' market, farmstand, and community supported agriculture (CSA) authorization and priority.

50.8(1) A farmers' market/farmstand/CSA shall be eligible for authorization based in part upon the submission of assurances by a representative who has the legal authority to obligate the farmers' market/farmstand/CSA. Farmers' market/farmstand/CSA assurances shall be submitted in a manner outlined by the a department and shall provide evidence of willingness by a person(s) associated with the farmers' market/farmstand/CSA to implement all FMNP/SFMNP requirements.

50.8(2) Assurances submitted by a farmers' market/farmstand shall include, but not be limited to, all of the following:

- a. The name(s) of certified vendor participant(s).
- b. Posted hours and days of operation to be maintained each week, specifically detailed to cover any anticipated fluctuations in operations over the course of the season. A farmers' market/farmstand must be actively operating a minimum of two consecutive hours each week.
- c. Season of operation which ensures the farmers' market/farmstand is actively operating on the same day, on a weekly basis, for a majority of the weeks of the season.
- d. Accessibility and consistency of farmers' market/farmstand site over the course of the season.

e. Local rules that do not overly restrict the number of certified vendors who may participate in the farmers' market or operate a farmstand.

f. Department is notified if the farmers' market/farmstand changes the posted hours and days of operation prior to the end of the authorization period.

50.8(3) A CSA program shall:

a. Provide such information as the department may require for its periodic reports to USDA-FNS.

b. Ensure that SFMNP recipients receive only eligible foods.

c. Provide eligible foods to SFMNP shareholders at or less than the price charged to other customers.

d. Ensure that the shareholders receive eligible foods that are of equitable value and quantity to their share.

e. Ensure that all funds from the department are used for planting of crops for SFMNP shareholders.

f. Provide to the department access to a tracking system that determines the value of the eligible foods provided and the remaining value owed to each SFMNP shareholder.

g. Ensure that SFMNP shareholders/authorized representatives provide written acknowledgment of receipt of eligible foods.

h. Accept training on SFMNP procedures and provide training to farmers and any employees with SFMNP responsibilities for such procedures.

i. Agree to be monitored for compliance with SFMNP requirements, including both overt and covert monitoring.

j. Be accountable for actions of farmers or employees in the provision of eligible foods and related activities.

k. Offer SFMNP shareholders the same courtesies as other customers.

l. Notify the department immediately when the CSA program is experiencing a problem with its crops and may be unable to provide SFMNP shareholders with the complete amount of eligible foods agreed upon between the CSA and the department.

m. Comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in Part 249.7 of Title 7 Code of Federal Regulations, as of May 26, 2005.

n. Notify the department if any CSA program ceases operation prior to the end of the authorization period.

50.8(4) The department shall give priority to a farmers' market/farmstand/CSA with previous involvement in FMNP/SFMNP, provided the farmers' market/farmstand/CSA does not have a high incidence of certified vendor noncompliance, suspensions, or disqualifications.

50.8(5) A principal factor in determining farmers' market authorization shall pertain to the number of eligible applications received by the department prior to April 15 that indicate the intent to participate in the given farmers' market. A standard of three eligible certified vendor applications, indicating intent to participate in the farmers' market for the majority of weeks of the season, is required for a farmers' market to receive authorization.

50.8(6) The number of farmers' markets/farmstands/CSAs authorized for publication in the directory shall be determined by the department no later than May 1 prior to each season. Additional farmers' markets/farmstands/CSAs may be authorized no later than June 30.

50.8(7) An authorized farmers' market must ensure that at least one certified vendor remains at the authorized farmers' market during the posted days and hours of market operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmers' market authorization.

50.8(8) A farmstand authorized to participate in the FMNP/SFMNP shall be operated from a permanent building that is primarily used for the sale of eligible foods, is not moveable and remains in the same location year-round. The building shall have at least a roof, sidewalls, and solid floor to protect produce and people. Wood post frame, stud frame, rigid-frame metal, and concrete block construction

are suitable farmstand construction. The building must be maintained in a manner consistent with standards generally accepted for this type of business. Up to two moveable farmstands that do not meet the requirements of permanent farmstands may be authorized in cities and villages that are not located within ten miles of an authorized farmers' market. If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market. An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.

21—50.9(159) Vendor certification.

50.9(1) Vendor certification shall not be in effect and vouchers shall not be accepted until the applicant receives a certified vendor identification card, a certified vendor identification sign, a certified vendor stamp, a copy of the vendor application form, and the applicant copy of the department-vendor agreement signed by both parties.

50.9(2) Vendor certification expires at the end of each year of issuance. Individuals must annually apply for and receive vendor certification in order to participate in FMNP/SFMNP.

50.9(3) The department does not limit the number of vendors who may become certified under FMNP/SFMNP. The department issues a single certified vendor number for each separate and distinct agricultural operation. A vendor certified to accept program vouchers may accept vouchers at any authorized market in the state upon approval by the department to participate in that particular market and acceptance by the particular market. A vendor who satisfies all the following criteria shall be certified to accept vouchers.

a. Indicates an intent to participate in one or more authorized farmers' markets/farmstands for a majority of weeks of the market season. A vendor who does not participate in the FMNP/SFMNP for the majority of weeks of the season may be certified to accept vouchers only at farmers' markets that have been previously authorized. A certified vendor who does not participate in the FMNP/SFMNP for the majority of weeks of the season will not be considered in the standard of three eligible certified vendor applications required for a farmers' market to receive authorization.

b. Participates in training on FMNP/SFMNP rules and procedures through attendance in an entire session of one of the six scheduled training meetings conducted by department staff.

c. Meets the eligibility requirements based on the information submitted in a completed application to the department prior to the deadline.

d. Is 18 years of age or older and submits a completed and signed certified vendor agreement to the department.

e. Resides and grows eligible foods within Iowa or in a neighboring state in a county adjacent to Iowa's border.

21—50.10(159) Certified vendor obligations. A certified vendor shall be responsible for, but not limited to, all of the following:

1. Beginning each market day with at least 20 percent of all products for sale or display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display, and with all produce being locally grown. When eligible foods are purchased for resale from another producer or wholesaler, valid receipts must be presented to the department upon request and must contain the following information: the name, address and telephone number of the producer/wholesaler; the date of purchase; location of the growing site; and quantity purchased, itemized by product type.

2. Accepting vouchers only for a transaction that takes place at the location, hours, and days of an authorized farmers' market/farmstand, only in exchange for eligible foods, and signed by the recipient or proxy at the time of purchase.

3. Prominently displaying a certified vendor identification sign that is located on the customer traffic side of the stall only at the location, hours, and days of an authorized farmers' market/farmstand. The certified vendor identification sign must be removed or covered when the eligible foods are sold out.

4. Providing eligible foods to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale. Vouchers that are properly presented must be accepted by certified vendors participating in the FMNP/SFMNP.

5. Accepting vouchers as payment for eligible foods only if presented on or before the usage expiration date printed on the face of the voucher.

6. Stamping each transacted voucher with the certified vendor number prior to voucher deposit and submitting vouchers for payment on or before 15 days following the expiration date printed on the face of the voucher.

7. Handling transactions with recipients in the same manner as transactions with all other customers, to ensure that FMNP/SFMNP clients are not exposed to discriminatory practices in any form.

8. Not collecting state or local taxes on purchases involving vouchers.

9. Providing eligible foods to recipients at the current price or less than the current price charged to other customers.

10. Not levying a surcharge based on the use of vouchers by recipients.

11. Not returning cash or issuing credit in any form to recipients during sales transactions that involve vouchers only. In the event of a single transaction in which a recipient presents a combination of cash and vouchers for the purchase of locally grown fresh produce, cash or credit up to the value of the cash portion of the payment may be given to the recipient. Credits or refunds may not be issued on returned eligible foods that were purchased with vouchers.

12. Participating in training as the department deems necessary to carry out the intent of FMNP/SFMNP.

13. Cooperating with the department in the evaluation of each season by completely and accurately responding to a survey, with resubmission to the department in a specified and timely manner.

14. Immediately informing the department in the event of loss, destruction, or theft of the certified vendor identification card, certified vendor identification sign, or certified vendor stamp so that a replacement may be issued.

15. Complying with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

16. Complying with the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, United States Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in 248.7 and 249.7 of the Title 7 Code of Federal Regulations as of May 26, 2005.

17. Agreeing to be monitored at farmers' markets/farmstands and growing sites for compliance with FMNP/SFMNP requirements, including both overt and covert monitoring, and providing directions to growing sites upon request of department staff.

18. Not seeking restitution from FMNP/SFMNP recipients for vouchers not paid by the department.

19. Paying the department for any vouchers transacted in violation of the FMNP/SFMNP regulations.

20. Ensuring that all other persons who act on behalf of the certified vendor at a farmers' market/farmstand act solely on behalf of the certified vendor and understand and adhere to the procedures and regulations of the FMNP/SFMNP.

21. Coordinating with other certified vendors to ensure that at least one certified vendor remains at the authorized farmers' market during the posted hours and days of operation.

21—50.11(159) Certified vendor noncompliance sanctions.

50.11(1) A voucher shall be returned to the certified vendor unpaid if the certified vendor identification number is not properly stamped on the face of the voucher or if the recipient signature is missing on the face of the voucher. A voucher may be resubmitted for payment in the event that the signature or vendor certification identification error can be properly and legally corrected by the certified vendor.

50.11(2) Sanctions for violations of FMNP/SFMNP procedures and rules applicable to a certified vendor are as follows:

a. A warning citation may be the sanction for violation of the requirement to:

- (1) Appropriately display the certified vendor identification sign,
 - (2) Post the current operating sticker to the vendor identification sign or vendor identification card,
- or

(3) Coordinate with other certified vendors to ensure that at least one certified vendor remains at the authorized farmers' market during the posted hours and days of operation.

If a pattern of disregard is evident, the vendor may be suspended for the remainder of the current year and the following year.

b. A warning citation after the first violation and suspension from the FMNP/SFMNP for the remainder of the current year and the following year after the second violation (regardless of when the first violation occurred) may be the sanctions for violation of the requirement to:

(1) Begin each market day with at least 20 percent of all products for sale or on display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display, and with all produce being locally grown.

(2) Accept vouchers only at locations, hours, or days authorized by the department.

(3) Provide eligible foods to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale.

(4) Accept vouchers as payment for eligible foods only if presented on or before the usage expiration date printed on the face of the voucher.

(5) Handle transactions with recipients in the same manner as transactions with all other customers to ensure that FMNP/SFMNP clients are not exposed to discriminatory practices in any form.

(6) Not collect state or local taxes on purchases involving vouchers.

(7) Provide eligible foods to recipients at the current price or less than the current price charged to other customers.

(8) Not levy a surcharge based on the use of vouchers by recipients.

(9) Comply with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

(10) Agree to be monitored at farmers' markets/farmstands and growing locations for compliance with FMNP/SFMNP requirements, including both overt and covert monitoring; provide proper receipts for produce purchased for resale; or provide directions to growing sites upon request of department staff.

(11) Refrain from abusive or discriminatory treatment of recipients or FMNP/SFMNP staff.

c. Disqualification without reinstatement may be the sanction for violation of the requirement to:

(1) Accept vouchers only in exchange for eligible foods, or

(2) Return no cash or issue no credit in any form to recipients during sales transactions that involve vouchers only.

50.11(3) Violations involving the use of multiple vouchers in a single sales transaction shall be considered as a single violation. Violations involving multiple sales transactions, regardless of time elapsed, shall be considered multiple violations at a standard of one violation per sales transaction.

50.11(4) Citations. A written citation shall be issued to the certified vendor by the department within five days of receipt of evidence of a violation. A written citation from the department shall be pending for five days following receipt of the citation by the certified vendor. The certified vendor shall be granted the pending period for presenting sufficient evidence to the department to substantiate a reversal. Remedies undertaken in response to receipt of a written notice of a pending citation of noncompliance shall not constitute evidence in defense of such citation. Failure to present any evidence (oral or written) to the department within the specified period shall constitute acceptance of the citation by the certified vendor. Submission of insufficient evidence by the certified vendor for determination of reversal on the pending citation by the department may result in a sanction upon completion of the pending period.

50.11(5) Suspension. Suspension of a certified vendor from participation in FMNP/SFMNP shall remain in effect for the balance of the current year and the following year. During the suspension period,

the cited vendor shall refrain from participating in FMNP/SFMNP. The department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of the suspension notification. The suspended vendor is required to return the certified vendor identification sign(s), certified vendor identification card, and certified vendor stamp to the department within 15 days of receipt of the suspension notice. At the conclusion of a suspension period, the vendor must reapply for and receive certification in order to resume participation in FMNP/SFMNP.

50.11(6) Disqualification. Disqualification shall be without reinstatement. The disqualified vendor is required to return the certified vendor identification sign(s), certified vendor card, and certified vendor stamp to the department within 15 days of receipt of the disqualification notice. In the event of a disqualification, the department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of disqualification notification.

50.11(7) Probationary status. Any vendor successfully recertified following suspension will be on probationary status for one full FMNP/SFMNP season. Recurrence of a substantiated suspension violation during the probationary period and for which the certified vendor has been cited shall be sufficient grounds for immediate and automatic disqualification.

21—50.12(159) Appeal. A certified vendor who wishes to appeal a sanction made by the department which resulted in a suspension or disqualification may make a written request for administrative appeal to the department's FMNP/SFMNP director. This appeal must be made within 15 days of receipt of sanction notification by the certified vendor. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter. The farmer/farmers' market/CSA program has the right to appeal a denial of an application to participate. Expiration of a contract or agreement shall not be subject to appeal.

21—50.13(159) Deadlines.

50.13(1) Submission of farmers' market/farmstand/CSA assurances. Assurances, on forms provided by the department, must be submitted no later than May 1 in order for a farmers' market/farmstand/CSA to be published in the Directory of Authorized Locations. Assurances will be accepted no later than June 30.

50.13(2) Submission of vendor application. All applications shall be submitted no later than one month preceding the last date on which vouchers may be used by recipients at an authorized farmers' market/farmstand/CSA.

50.13(3) Recipient voucher usage expiration. Vouchers shall be valid for recipient use from the season starting date through the ending date as designated by the department. Such date shall be clearly printed on the voucher face. Vouchers shall be null and void after the expiration date.

50.13(4) Certified vendor voucher reimbursement. All vouchers accepted by a certified vendor shall be deposited on or before 15 days following the date of expiration for voucher usage by recipients. Such date shall be clearly printed in the endorsement space on the back of the voucher. Any claim to voucher payment beyond the voucher reimbursement expiration date is not valid and shall be denied.

50.13(5) Submissions by local agency. Deadlines for submission of records, reports, survey instruments and undistributed vouchers by local agencies shall be established by the department and specified in the agreement entered into with the local agency.

50.13(6) Operations plans and reports to USDA-FNS. The department shall develop and submit plans and reports in a manner prescribed by USDA-FNS.

21—50.14(159) Discrimination complaints. FMNP/SFMNP is open to all eligible persons. Persons seeking to file discrimination complaints based on race, national origin, age, sex, or disability may write to USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410.

These rules are intended to implement Iowa Code chapter 159.

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CHAPTER 85
WEIGHTS AND MEASURES

[Appeared as Ch 14, 1973 IDR]

[Certain rules renumbered 5/3/78]

All tolerances and specifications for the weights and measures division were adopted from the
U.S. Bureau of Standards Handbook II, 44 published September 1949.

[Prior to 7/27/88 see Agriculture Department 30—Ch 55]

WEIGHTS

21—85.1(215) “Sensibility reciprocal” defined. The term “*sensibility reciprocal*” is defined as to the weight required to move the position of equilibrium of the beam, pan, pointer or other indicating device of a scale, a definite amount.

This rule is intended to implement Iowa Code section 215.18.

21—85.2(215) “Platform scale” defined. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.3(215) For vehicle, axle-load, livestock, animal, crane and railway track scales. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.4 Reserved.

21—85.5(215) “Counter scale” defined. A “*counter scale*” is a scale of any type which is especially adopted on account of its compactness, light weight, moderate capacity and arrangements of parts for use upon a counter, bench, or table.

21—85.6(215) “Spring and computing scales” defined. A “*spring scale*” is a scale in which the weight indications depend upon the change of shape or dimensions of an elastic body or system of such bodies.

85.6(1) A “*computing scale*” is a scale which, in addition to indicating the weight, indicates the total price of the amount of commodity weighed for a series of unit prices and must be correct in both its weight and value indications.

85.6(2) All computing scales shall be equipped with weight indicators and charts on both the dealer’s and customer’s sides.

85.6(3) Tolerances for both the spring scale and the computing scale shall not be greater than that for counter scales.

This rule is intended to implement Iowa Code section 215.18.

21—85.7(215) “Automatic grain scale” defined. The “*automatic grain scale*” is one so constructed with a mechanical device that a stream of grain flowing into its hopper can be checked at any given weight, long enough to register said weight and dump the load. The garner above the scale should have at least three times the capacity of the scale to ensure a steady flow at all times.

On automatic-indicating scales. On a particular scale, the maintenance tolerances applied shall be not smaller than one-fourth the value of the minimum reading-face graduation; the acceptance tolerances applied shall be not smaller than one-eighth the value of the minimum reading-face graduation.

However, on a prepacking scale (see D.11, D.12) having graduated intervals of less than one-half ounce, the maintenance tolerances applied shall not be smaller than one-eighth ounce and the acceptance tolerances applied shall be not smaller than one-sixteenth ounce.

This rule is intended to implement Iowa Code section 215.18.

21—85.8(215) “Motor truck scales” defined. “*Motor truck scales*” are scales built by the manufacturer for the use of weighing commodities transported by motor truck.

This rule is intended to implement Iowa Code section 215.18.

21—85.9(215) “Livestock scales” defined. “*Livestock scales*” are scales which are constructed with stock racks, or scales which are being used to weigh livestock.

This rule is intended to implement Iowa Code section 215.18.

21—85.10(215) “Grain dump scales” defined. “*Grain dump scales*” are scales so constructed that the truck may be unloaded without being moved from the scale platform.

The above-mentioned scales must be approved by the department. This approval being based upon blueprints and specifications submitted for this purpose.

This rule is intended to implement Iowa Code section 215.18.

21—85.11(215) Scale pit.

85.11(1) In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer’s specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck.

85.11(2) Electronic scales shall have a vertical clearance of not less than four feet from the floor line to the bottom of the I-beam of the scale bridge, thus providing adequate access for inspection and maintenance. The load-bearing supports of all scales installed in a fixed location shall be constructed to ensure the strength, rigidity and permanence required for proper scale performance.

This rule is intended to implement Iowa Code section 215.15.

21—85.12(215) Pitless scales. A person may install pitless electronic, self-contained and vehicle scales in a permanent location provided the following conditions for the construction are incorporated:

85.12(1) Scale installation applications and permits must be submitted to the department of agriculture and land stewardship the same as the pit scale installation, with specifications being furnished by the manufacturer, for approval.

85.12(2) Piers shall extend below the frost line or be set on solid bed rock; and they shall be of reinforced concrete.

85.12(3) A reinforced concrete slab the width of the scale, at least six inches thick, shall run full length under the scale. Slab and piers shall be tied together with reinforcement rod, with a minimum clearance of eight inches between floor and weighbridge.

85.12(4) Reinforced portland cement approaches at least 12 inches thick, ten feet long and as wide as the scale, shall be provided on each end in a level plane with the scale platform.

85.12(5) Scale shall be installed at an elevation to ensure adequate drainage away from scale.

85.12(6) Scale platform and indicator shall be protected from wind and other elements which could cause inaccurate operation of the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.13(215) Master weights. Master scale test weights used for checking scales after being overhauled must be sealed by the department of agriculture and land stewardship, division of weights and measures, as to their accuracy once each year. Said weights after being sealed are to be used only as master test weights.

This rule is intended to implement Iowa Code section 215.17.

21—85.14(215) Scale design. A scale shall be of such materials and construction that (1) it will support a load of its full nominal capacity without developing undue stresses or deflections, (2) it may reasonably be expected to withstand normal usage without undue impairment of accuracy or the correct functioning of parts, and (3) it will be reasonably permanent in adjustment.

85.14(1) Stability of indications. A scale shall be capable of repeating with reasonable precision its indications and recorded representations. This requirement shall be met irrespective of repeated manipulation of any scale element in a manner duplicating normal usage, including (a) displacement of

the indicating elements to the full extent allowed by the construction of the scale, (b) repeated operation of a locking device, and (c) repeated application or removal of unit weights.

85.14(2) *Interchange or reversal of parts.* Parts which may readily be interchanged or reversed in the course of normal usage shall be so constructed that their interchange or reversal will not materially affect the zero-load balance or the performance of the scale. Parts which may be interchanged or reversed in normal field assembly shall be (a) so constructed that their interchange or reversal will not affect the performance of the scale or (b) so marked as to show their proper positions.

85.14(3) *Pivots.* Pivots shall be made of hardened steel, except that agate may be used in prescription scales, and shall be firmly secured in position. Pivot knife-edges shall be sharp and straight and cone-pivot points shall be sharp.

85.14(4) *Position of equipment, primary or recording indicating elements (electronic weighing elements).* A device equipped with a primary or recording element shall be so positioned that its indications may be accurately read and the weighing operations may be observed from some reasonable "customer" position; the permissible distance between the equipment and a reasonable customer position shall be determined in each case upon the basis of individual circumstances, particularly the size and character of the indicating element; a window large enough should be placed in the building, and the installation should be so arranged as to afford an unobstructed view of the platform.

This rule is intended to implement Iowa Code section 215.18.

21—85.15(215) *Weighbeams.* All weighbeams, dials, or other mechanical weight-indicating elements must be placed on reinforced concrete footings or metal structural members. Concrete and metal must be of sufficient strength to keep mechanical weight-indicating elements in positive alignment with the lever system.

This rule is intended to implement Iowa Code section 215.18.

21—85.16(215) *Beam box.* Whenever a scale is equipped with a beam box, the beam uprights, shelf and cap must be made of channel irons or I-beams. The box covering the weighbeam may be constructed of wood or other material.

This rule is intended to implement Iowa Code section 215.18.

21—85.17(215) *Beam rod.* Rescinded IAB 3/31/04, effective 5/5/04.

21—85.18(215) *Weight capacity.* The amount of weight indicated on the beam, dial or other auxiliary weighing attachments shall not exceed the factory-rated capacity of the scale, and said capacity shall be stamped on the butt of the beam (fractional bar is not included).

85.18(1) *Auxiliary attachment.* If auxiliary attachment is used, the amount of the auxiliary attachment must be blocked from the beam.

85.18(2) *Normal position.* The normal balance position of the weighbeam of a beam scale shall be horizontal.

85.18(3) *Travel.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(4) *Weighbeam.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(5) *Poise stop.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(6) *Pawl.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(7) *Nominal capacity, marking.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(8) *Uncompensated spring scales.* A small capacity uncompensated spring scale shall be conspicuously marked to show that the scale is illegal for use in the retail sale of foodstuffs other than fruits and vegetables.

This rule is intended to implement Iowa Code section 215.16.

21—85.19(215) *Provision for sealing coin slot.* Provision shall be made on a coin-operated scale for applying a lead and wire seal in such a way that insertion of a coin in the coin slot will be prevented.

This rule is intended to implement Iowa Code section 215.18.

21—85.20(215) Stock racks. A livestock scale shall be equipped with a suitable enclosure, fitted with gates as required, within which livestock may be held on a scale platform; this rack shall be securely mounted on the scale platform and adequate clearances shall be maintained around the outside of the rack.

This rule is intended to implement Iowa Code section 215.18.

21—85.21(215) Lengthening of platforms. The length of the platform of a vehicle scale shall not be increased beyond the manufacturer's designed dimension except when the modification has been approved by competent scale-engineering authority, preferably that of the engineering department of the manufacturer of the scale, and by the weights and measures authority having jurisdiction over the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.22(215) Accessibility for testing purposes. A large capacity scale shall be so located, or such facilities for normal access thereto shall be provided that the test weights of the weights and measures official, in the denominations customarily provided, and in the amount deemed necessary by the weights and measures official for the proper testing of the scale, may readily be brought to the scale by the customary means; otherwise it shall be the responsibility of the scale owner or operator to supply such special facilities, including necessary labor, as may be required to transport the test weights to and from the scale, for testing purposes, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.10.

21—85.23(215) Assistance in testing operations. If the design, construction or location of a large-capacity scale is such as to require a testing procedure involving special accessories or an abnormal amount of handling of test weights, such accessories or needed assistance in the form of labor shall be supplied by the owner or operator of the scale, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.1.

21—85.24(215) Beam scale. One on which the weights of loads of various magnitude are indicated solely by means of one or more weighbeam bars either alone or in combination with counterpoise weights.

This rule is intended to implement Iowa Code section 215.18.

21—85.25(215) Spring scale. An automatic-indicating scale in which the counterforce is supplied by an elastic body or system of such bodies, the shape or dimensions of which are changed by applied loads. A "compensated" spring scale is one equipped with a device intended to compensate for changes in the elasticity of the spring or springs resulting from changes in temperature, or one so constructed as to be substantially independent of such changes; an "uncompensated" spring scale is one not so equipped or constructed. A "straight-face" spring scale is one in which the indicator is affixed to the spring without intervening mechanism and which indicates weight values on a straight graduated reading-face. (The use in a scale of metal bands or strips in lieu of pivots and bearings does not constitute the scale a "spring" scale.)

This rule is intended to implement Iowa Code section 215.18.

21—85.26(215) Weighbeam or beam. An element comprising one or more bars equipped with movable poises or means for applying counterpoise weights or both.

This rule is intended to implement Iowa Code section 215.18.

21—85.27(215) Livestock scale. For purposes of the application of requirements for SR tolerances and minimum graduations, a scale having a nominal capacity of 6,000 pounds or more and used primarily for weighing livestock standing on the scale platform. (An "animal scale" is a scale adapted to weighing single heads of livestock.)

This rule is intended to implement Iowa Code section 215.18.

SCALES

21—85.28(215) Wheel-load weighers and axle-load scales. The requirements for wheel-load weighers and axle-load scales apply only to such scales in official use for the enforcement of traffic in highway laws or for the collection of statistical information by government agencies.

This rule is intended to implement Iowa Code 215A.3.

21—85.29(215) Highway vehicle. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.30 to 85.32 Reserved.

MEASURES

21—85.33(214A,208A) Motor fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor fuel, including but not limited to renewable fuels such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and components such as an oxygenate, raffinate natural gasoline and motor vehicle antifreeze shall be those established by the American Society for Testing and Materials (ASTM) in effect on October 1, 2006. Diesel fuel which does not comply with ASTM international specifications may be stored in Iowa only if the diesel fuel is stored at a terminal for the purposes of blending the diesel fuel with biodiesel so that the finished biodiesel blended product does meet the applicable specifications. In addition, a motor fuel that contains more than one-half of 1 percent of methyl tertiary butyl ether (MTBE) by volume shall not be sold, offered for sale, or stored in Iowa.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6 and 215.18 and 2006 Iowa Acts, House File 2754.

21—85.34(215) Tolerances on petroleum products measuring devices. All pumps or meters at filling stations may have a tolerance of not over five cubic inches per five gallons, minus or plus. All pumps or measuring devices of a large capacity shall have a maintenance tolerance of 50 cubic inches, minus or plus, on a 50-gallon test. Add additional one-half cubic inch tolerance per gallon over and above a 50-gallon test. Acceptance tolerances on large capacity pumps and measuring devices shall be one-half the maintenance tolerances.

This rule is intended to implement Iowa Code sections 214.2 and 215.20.

21—85.35(215) Meter adjustment. If a meter is found to be incorrect and also capable of further adjustment, said meter shall be adjusted, rechecked and sealed. If a seal is broken for any cause other than by a state inspector, the department of agriculture and land stewardship shall be promptly notified of same.

85.35(1) Companies specializing in testing and repairing gasoline and fuel oil dispensing pumps or meters, shall be registered with the division of weights and measures, upon meeting requirements set forth by the department of agriculture and land stewardship.

85.35(2) In accordance with the contemplated revision of National Bureau of Standards Handbook 44-4th Edition, G-UR4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

85.35(3) If a meter is found to be inaccurate, "Repair and Placing in Service" card shall be left by the inspector.

85.35(4) After meter has been repaired and placed in service, the "Repair and Placing in Service" card must be returned to the Iowa Department of Agriculture and Land Stewardship, Weights and Measures Division.

This rule is intended to implement Iowa Code section 215.20.

21—85.36(215) Recording elements. All weighing or measuring devices shall be provided with appropriate recording or indicating elements, which shall be definite, accurate and easily read under

any conditions of normal operation of the device. Graduations and a suitable indicator shall be provided in connection with indications and recorded representations designed to advance continuously. Graduations shall not be required in connection with indications or recorded representations designed to advance intermittently or with indications or recorded representations of the selector type.

This rule is intended to implement Iowa Code section 215.18.

21—85.37(215) Air eliminator. All gasoline or oil metering devices shall be equipped with an effective air eliminator to prevent passage of air or vapor through the meter. The vent from such eliminator shall not be closed or obstructed.

This rule is intended to implement Iowa Code section 215.18.

21—85.38(215) Delivery outlets. No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or the discharge line therefrom. However, two or more delivery outlets may be installed, if automatic means is provided to ensure that liquid can flow from only one such outlet at one time, and the direction of flow for which the mechanism may be set at any time is definitely and conspicuously indicated.

This rule is intended to implement Iowa Code section 215.18.

21—85.39(189,215) Weights and measures. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July 16, 2009, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation and Checking the Net Contents of Packaged Goods, and all supplements, as promulgated by the National Institute of Standards and Technology amended or revised as of July 16, 2009, are adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

[ARC 8292B, IAB 11/18/09, effective 12/23/09]

21—85.40(215) Inspection tag or mark. If a meter is found to be inaccurate, an appropriate “inaccurate” card and a “repair and placing in service” card shall be left with the meter.

85.40(1) The “inaccurate” card is to be retained by the LP-gas dealer after repair.

85.40(2) The “repair and placing in service” card is to be forwarded to weights and measures division of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.5.

21—85.41(215) Meter repair. If the meter has not been repaired within 30 days the meter will be condemned and a red condemned tag will be attached to the meter.

This rule is intended to implement Iowa Code section 215.5.

21—85.42(215) Security seal. In accordance with the contemplated revision of National Institute of Standards and Technology Handbook 44, Gur. 4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

This rule is intended to implement Iowa Code section 215.12.

21—85.43(215) LP-gas meter repairs. Companies specializing in testing and repairing LP-gas meters shall be registered with the division of weights and measures as accredited repair and testing agencies upon meeting the requirements set forth by the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.44(215) LP-gas delivery. In the delivery of LP-gas by commercial bulk trucks (bobtail) across state lines, it shall be mandatory for all trucks delivering products to be equipped with a meter that has been either tested by the state of Iowa or that carries the seal of an accredited meter service and proving company.

This rule is intended to implement Iowa Code section 215.20.

21—85.45(215) LP-gas meter registration. The location of all LP-gas liquid meters in retail trade shall be listed, by the owner, with the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.46(215) Reporting new LP-gas meters. Upon putting a new or used meter into service in the state of Iowa, the user shall report to the weights and measures division.

This rule is intended to implement Iowa Code section 215.20.

21—85.47 Rescinded, effective 11/27/85.

21—85.48(214A,215) Advertisement of the price of liquid petroleum products for retail use.

85.48(1) Nothing in this rule shall be deemed to require that the price per gallon or liter or any grade or kind of liquid petroleum product sold on the station premises be displayed or advertised except on the liquid petroleum metering distribution pumps.

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump.

85.48(3) Notwithstanding the provisions of subrule 85.48(2), cash only prices may be posted by the petroleum marketer on the following basis:

a. Cash only prices must be disclosed on the posted sign as “cash only” or similar unequivocal wording in lettering 3” high and ¼” in stroke when the whole number price being shown is 36” or less in height; or in lettering at least 6” high and ½” in stroke when the whole number price is more than 36” in height.

b. Cash prices posted or advertised must be available to all customers, regardless of type of service (e.g., full service or self-service); or grade of product (e.g., regular, unleaded, gasohol and diesel).

c. Cash and credit prices or discounts must be prominently displayed on the dispenser.

d. A chart showing applicable cash discounts expressed in terms of both the computed and posted price shall be available to the customer on the service station premises.

85.48(4) On all outside display signs, the whole number shall not be less than 6” in height and not less than 3/8” in stroke, and any fraction shall be at least one-third of the size of the whole number in both height and width.

85.48(5) The price must be complete, including taxes without any missing numerals or fractions in the price.

85.48(6) Price advertising signs shall identify the type of product (e.g., regular, unleaded, gasohol and diesel), in lettering at least 3” high and ¼” in stroke when the whole number price being shown is 36” or less in height, or in lettering at least 6” high and ½” in stroke when the whole number price is more than 36” in height.

85.48(7) A price advertising sign shall display, if in liters and may display if in gallons, the unit measure at least in letters of 3” minimum.

85.48(8) Directional or informational signs for customer location of the type of service or product advertised shall be clearly and prominently displayed on the station premises in a manner not misleading to the public.

85.48(9) The advertising of other commodities or services offered for sale by petroleum retailers in such a way as to mislead the public with regard to petroleum product pricing shall be prohibited.

85.48(10) Weights and measures motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30" and 50" above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

a. The only two sizes of decals approved are the following:

(1) A design of 1.25" by 4".

(2) A design of 2" by 6".

b. All labels shall have the word "with" in letters a minimum of .1875" high, and the name of the renewable fuel in letters a minimum of .5" high.

c. The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party including the weights and measures bureau of the department in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording to promote the use of renewable fuels.

d. All black and white fuel pump stickers shall be replaced by approved colorful fuel pump decals effective July 1, 1995.

85.48(11) Ethanol blended gasoline classified as higher than E-10 shall have a visible, legible "for flex fuel vehicle only" sticker on the pump or pump handle.

85.48(12) and **85.48(13)** Rescinded IAB 3/11/09, effective 4/15/09.

85.48(14) Octane rating of fuel offered for sale shall be posted on the pump in a conspicuous place. However, no octane rating shall be posted on the pump for ethanol blended gasoline classified as higher than E-10.

85.48(15) Any gasoline labeled as "leaded" shall be produced with the use of any lead additive or contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. As used in this subrule, "lead additive" means any substance containing lead or lead compounds.

This rule is intended to implement Iowa Code sections 214A.3, 214A.16 and 215.18.

[ARC 7628B, IAB 3/11/09, effective 4/15/09]

21—85.49(214A,215) Gallonage determination for retail sales. The method of determining gallonage on gasoline or diesel motor vehicle fuel for retail sale shall be on a gross volume basis. Temperature correction or any deliberate methods of heating shall be prohibited.

This rule is intended to implement Iowa Code sections 214A.3 and 215.18.

21—85.50(214,214A,215) Blender pumps. Motor fuel blender pumps or blender pumps installed or modified after November 1, 2008, which sell both ethanol blended gasoline classified as higher than E-10 and gasoline need to have at least two hoses per pump.

This rule is intended to implement Iowa Code section 214A.2.

[ARC 7628B, IAB 3/11/09, effective 4/15/09]

21—85.51 Reserved.

MOISTURE-MEASURING DEVICES

21—85.52(215A) Testing devices. All moisture-measuring devices will be tested against a measuring device which will be furnished by the department and all moisture-measuring devices will be inspected to determine whether they are in proper operational condition and supplied with the proper accessories.

This rule is intended to implement Iowa Code section 215A.2.

21—85.53(215A) Rejecting devices. Moisture-measuring devices may be rejected for any of the following reasons:

85.53(1) The moisture-measuring device tested is found to be out of tolerance with the measuring device used by the department by one of the inspectors so assigned by more than 0.7 percent on grain moisture content.

85.53(2) The person does not have available the latest charts for type of device being used.

85.53(3) The person does not have available the proper scale or scales and thermometers for use with the type of device being used.

85.53(4) The moisture-measuring device is not free from excessive dirt, debris, cracked glass or is not kept in good operational condition at all times.

This rule is intended to implement Iowa Code section 215A.6.

21—85.54(215,215A) Specifications and standards for moisture-measuring devices. The specifications and tolerances for moisture-measuring devices are those established by the United States Department of Agriculture as of November 15, 1971, in chapter XII of GR instruction 916-6, equipment manual, used by the federal grain inspection service; and those recommended by National Bureau of Standards and published in National Bureau of Standards Handbook 44 as of July 1, 1985.

This rule is intended to implement Iowa Code section 215A.3.

21—85.55 Renumbered as 55.28(215), IAC 12/4/85.

21—85.56 Renumbered as 55.29(215), IAC 12/4/85.

21—85.57(215) Testing high-moisture grain. When testing high-moisture grain the operator of a moisture-measuring device shall use the following procedure: Test each sample six times adding the six measurements thus obtained and dividing the total by six to obtain an average which shall be deemed to be the moisture content of such sample.

This rule is intended to implement Iowa Code section 215A.7.

21—85.58 to 85.62 Reserved.

HOPPER SCALES

21—85.63(215) Hopper scales. A “hopper scale” is a scale designed for weighing bulk commodities whose load-receiving element is a tank, box, or hopper mounted on a weighing element; and includes automatic hopper scales, grain hopper scales, and construction material hopper scales.

85.63(1) Installation. A hopper scale used for commercial purposes shall be so located, or such facilities for normal access thereto shall be so provided that the test weights of the weights and measures official, in the denominations customarily provided, and in the amount deemed necessary by the weights and measures official for the proper testing of the scale, may readily be brought to the scale by customary means; otherwise it shall be the responsibility of the scale owner or operator to supply such special facilities, as required by the weights and measures official. The hopper scale shall have extended angle irons with hooks 14 inches from edge to hopper, in all four corners, to allow the inspector to hook his chain and binder to 500# weight (or 1000# weight) for testing.

85.63(2) Method of hopper scale testing. The method to be used in testing the scale for weighing accuracy shall be by the suspension of standard test weights at each corner of the weighbridge, suspended from a point as near as possible over the center of the main bearing. A suitable permanent device to which the suspension equipment may be connected shall be properly located and placed on each corner of the weighbridge. There is to be no obstruction, such as machinery, spouting or insufficient wall clearance, etc., that will interfere with the free suspension of the weights.

85.63(3) Approved by department. Newly installed hopper scales must be approved by the department; this approval shall be based upon blueprints and specifications submitted for this purpose.

This rule is intended to implement Iowa Code sections 215.10 and 215.18.

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INSURANCE DIVISION[191]

[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the “umbrella” of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

ORGANIZATION AND PROCEDURES

CHAPTER 1

ORGANIZATION OF DIVISION

- 1.1(502,505) Organization
- 1.2(502,505) Location and contact information
- 1.3(22,502,505) Public information and inspection of records
- 1.4(505) Service of process

CHAPTER 2

DECLARATORY ORDERS

- 2.1(17A) Petition for declaratory order
- 2.2(17A) Notice of petition
- 2.3(17A) Intervention
- 2.4(17A) Briefs
- 2.5(17A) Inquiries
- 2.6(17A) Service and filing of petitions and other papers
- 2.7(17A) Consideration
- 2.8(17A) Action on petition
- 2.9(17A) Refusal to issue order
- 2.10(17A) Contents of declaratory order—effective date
- 2.11(17A) Copies of orders
- 2.12(17A) Effect of a declaratory order

CHAPTER 3

CONTESTED CASES

- 3.1(17A) Scope and applicability
- 3.2(17A) Definitions
- 3.3(17A) Time requirements
- 3.4(17A) Requests for contested case proceeding
- 3.5(17A) Commencement of hearing; notice
- 3.6(17A) Presiding officer
- 3.7(17A) Waiver of procedures
- 3.8(17A) Telephone proceedings
- 3.9(17A) Disqualification
- 3.10(17A) Consolidation—severance
- 3.11(17A) Pleadings
- 3.12(17A) Service and filing of pleadings and other papers
- 3.13(17A) Discovery
- 3.14(17A) Subpoenas
- 3.15(17A) Motions
- 3.16(17A) Prehearing conference
- 3.17(17A) Continuances
- 3.18(17A) Withdrawals
- 3.19(17A) Intervention
- 3.20(17A) Hearing procedures
- 3.21(17A) Evidence
- 3.22(17A) Default
- 3.23(17A) Ex parte communication
- 3.24(17A) Recording costs

3.25(17A)	Interlocutory appeals
3.26(17A)	Final decision
3.27(17A)	Appeals and review
3.28(17A)	Applications for rehearing
3.29(17A)	Stay of agency action
3.30(17A)	No factual dispute contested cases
3.31(17A)	Emergency adjudicative proceedings
3.32(502,505,507B)	Summary cease and desist orders
3.33(17A,502,505)	Informal settlement
3.34(17A,502,505)	Witness fees

CHAPTER 4

AGENCY PROCEDURE FOR RULE MAKING AND WAIVER OF RULES

DIVISION I

AGENCY PROCEDURE FOR RULE MAKING

4.1(17A)	Applicability
4.2(17A)	Advice on possible rules before notice of proposed rule adoption
4.3(17A)	Public rule-making docket
4.4(17A)	Notice of proposed rule making
4.5(17A)	Public participation
4.6(17A)	Regulatory analysis
4.7(17A,25B)	Fiscal impact statement
4.8(17A)	Time and manner of rule adoption
4.9(17A)	Variance between adopted rule and rule proposed in Notice of Intended Action
4.10(17A)	Exemptions from public rule-making procedures
4.11(17A)	Concise statement of reasons
4.12(17A)	Contents, style, and form of rule
4.13(17A)	Agency rule-making record
4.14(17A)	Filing of rules
4.15(17A)	Effectiveness of rules prior to publication
4.16(17A)	General statements of policy
4.17(17A)	Review of rules by division
4.18(17A)	Petition for rule making
4.19 and 4.20	Reserved

DIVISION II

WAIVER AND VARIANCE RULES

4.21(17A)	Definition
4.22(17A)	Scope
4.23(17A)	Applicability of Division II of Chapter 4
4.24(17A)	Criteria for waiver or variance
4.25(17A)	Filing of petition
4.26(17A)	Content of petition
4.27(17A)	Additional information
4.28(17A)	Notice
4.29(17A)	Hearing procedures
4.30(17A)	Ruling
4.31(17A)	Public availability
4.32(17A)	Summary reports
4.33(17A)	Cancellation of a waiver
4.34(17A)	Violations
4.35(17A)	Defense
4.36(17A)	Judicial review

REGULATION OF INSURERS

CHAPTER 5

REGULATION OF INSURERS—GENERAL PROVISIONS

- 5.1(507) Examination reports
- 5.2(505,507) Examination for admission
- 5.3(507,508,515) Submission of quarterly financial information
- 5.4(505,508,515,520) Surplus notes
- 5.5(505,515,520) Maximum allowable premium volume
- 5.6(505,515,520) Treatment of various items on the financial statement
- 5.7(505) Ordering withdrawal of domestic insurers from states
- 5.8(505) Monitoring
- 5.9(505) Rate and form filings
- 5.10(511) Life companies—permissible investments
- 5.11(511) Investment of funds
- 5.12(515) Collateral loans
- 5.13(508,515) Loans to officers, directors, employees, etc.
- 5.14 Reserved
- 5.15(508,512B,514,514B,515,520) Accounting practices and procedures manual and annual statement instructions
- 5.16 to 5.19 Reserved
- 5.20(508) Computation of reserves

UNEARNED PREMIUM RESERVES ON MORTGAGE GUARANTY INSURANCE POLICIES

- 5.21(515C) Unearned premium reserve factors
- 5.22(515C) Contingency reserve
- 5.23(507C) Standards
- 5.24(507C) Commissioner's authority
- 5.25(505) Annual audited financial reports
- 5.26(508,515) Participation in the NAIC Insurance Regulatory Information System
- 5.27(508,515,520) Asset valuation
- 5.28(508,515,520) Risk-based capital and surplus
- 5.29(508,515) Actuarial certification of reserves
- 5.30(515) Single maximum risk—fidelity and surety risks
- 5.31(515) Reinsurance contracts
- 5.32(511,515) Investments in medium grade and lower grade obligations
- 5.33(510) Credit for reinsurance
- 5.34(508) Actuarial opinion and memorandum
- 5.35 to 5.39 Reserved
- 5.40(515) Premium tax
- 5.41(508) Tax on gross premiums—life companies
- 5.42(432) Cash refund of premium tax
- 5.43(510) Managing general agents

DISCLOSURE OF MORTGAGE LOAN APPLICATIONS

- 5.44 to 5.49 Reserved
- 5.50(535A) Purpose
- 5.51(535A) Definitions
- 5.52(535A) Filing of reports
- 5.53(535A) Form and content of reports
- 5.54(535A) Additional information required
- 5.55(535A) Written complaints

CHAPTER 6
ORGANIZATION OF DOMESTIC INSURANCE COMPANIES

6.1(506)	Definitions
6.2(506)	Promoters contributions
6.3(506)	Escrow
6.4(506)	Alienation
6.5(506)	Sales to promoters
6.6(506)	Options
6.7(506)	Qualifications of management
6.8(506)	Chief executive
6.9(506)	Directors

CHAPTER 7
DOMESTIC STOCK INSURERS PROXIES

PROXY REGULATIONS

7.1(523)	Application of regulation
7.2(523)	Proxies, consents and authorizations
7.3(523)	Disclosure of equivalent information
7.4(523)	Definitions
7.5(523)	Information to be furnished to stockholders
7.6(523)	Requirements as to proxy
7.7(523)	Material required to be filed
7.8(523)	False or misleading statements
7.9(523)	Prohibition of certain solicitations
7.10(523)	Special provisions applicable to election contests

SCHEDULE A
INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE B
INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF
OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION
IN AN ELECTION CONTEST
POLICYHOLDER PROXY SOLICITATION

7.11(523)	Application
7.12(523)	Conditions—revocation
7.13(523)	Filing proxy
7.14(523)	Solicitation by agents—use of funds
7.15 to 7.19	Reserved

STOCK TRANSACTION REPORTING

7.20(523)	Statement of changes of beneficial ownership of securities
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CHAPTER 8
BENEVOLENT ASSOCIATIONS

8.1 and 8.2	Reserved
8.3(512A)	Organization
8.4(512A)	Membership
8.5(512A)	Fees, dues and assessments
8.6(512A)	Reserve fund
8.7(512A)	Certificates
8.8(512A)	Beneficiaries
8.9(512A)	Mergers
8.10(512A)	Directors and officers
8.11(512A)	Stockholders
8.12(512A)	Bookkeeping and accounts

CHAPTER 9

Reserved

INSURANCE PRODUCERS

CHAPTER 10

LICENSING OF INSURANCE PRODUCERS

DIVISION I

LICENSING OF INSURANCE PRODUCERS

10.1(522B)	Purpose and authority
10.2(522B)	Definitions
10.3(522B)	Requirement to hold a license
10.4(522B)	Licensing of resident producers
10.5(522B)	Licensing of nonresident producers
10.6(522B)	Issuance of license
10.7(522B)	License lines of authority
10.8(522B)	License renewal
10.9(522B)	License reinstatement
10.10(522B)	Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance
10.11(522B)	Temporary licenses
10.12(522B)	Change in name, address or state of residence
10.13(522B)	Reporting of actions
10.14(522B)	Commissions and referral fees
10.15(522B)	Appointments
10.16(522B)	Appointment renewal
10.17(522B)	Appointment terminations
10.18(522B)	Licensing of a business entity
10.19(522B)	Use of senior-specific certifications and professional designations in the sale of life insurance and annuities
10.20(522B)	Violations and penalties
10.21(252J)	Suspension for failure to pay child support
10.22(261)	Suspension for failure to pay student loan
10.23(82GA,SF2428)	Suspension for failure to pay state debt
10.24(522B)	Administration of examinations
10.25(522B)	Forms
10.26(522B)	Fees
10.27 to 10.50	Reserved

DIVISION II

LICENSING OF CAR RENTAL COMPANIES AND EMPLOYEES

10.51(522A)	Purpose
10.52(522A)	Definitions
10.53(522A)	Requirement to hold a license
10.54(522A)	Limited licensee application process
10.55(522A)	Counter employee licenses
10.56(522A)	Duties of limited licensees
10.57(522A)	License renewal
10.58(522A)	Limitation on fees
10.59(522A)	Change in name or address
10.60(522A)	Violations and penalties

CHAPTER 11
CONTINUING EDUCATION FOR
INSURANCE PRODUCERS

11.1(505,522B)	Statutory authority—purpose—applicability
11.2(505,522B)	Definitions
11.3(505,522B)	Continuing education requirements for producers
11.4(505,522B)	Proof of completion of continuing education requirements
11.5(505,522B)	Course approval
11.6(505,522B)	Topic guidelines
11.7(505,522B)	CE course renewal
11.8(505,522B)	Appeals
11.9(505,522B)	CE provider approval
11.10(505,522B)	CE provider's responsibilities
11.11(505,522B)	Prohibited conduct—CE providers
11.12(505,522B)	Outside vendor
11.13(505,522B)	CE course audits
11.14(505,522B)	Fees and costs

CHAPTER 12
PORT OF ENTRY REQUIREMENTS

12.1(508,515)	Purpose
12.2(508,515)	Trust and other admission requirements
12.3(508,515)	Examination and preferred supervision
12.4(508,515)	Surplus required
12.5(508,515)	Investments

CHAPTER 13
CONSENT FOR PROHIBITED PERSONS
TO ENGAGE IN THE BUSINESS OF INSURANCE

13.1(505,522B)	Purpose and authority
13.2(505,522B)	Definitions
13.3(505,522B)	Requirement for prohibited persons to obtain consent
13.4(505,522B)	Applications for consent
13.5(505,522B)	Consideration of applications for consent
13.6(505,522B)	Review of application by the division
13.7(505,522B)	Consent effective for specified positions and responsibilities only
13.8(505,522B)	Change in circumstances
13.9(505,522B)	Burden of proof
13.10(505,522B)	Violations and penalties

UNFAIR TRADE PRACTICES

CHAPTER 14
LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

14.1(507B)	Purpose
14.2(507B)	Authority
14.3(507B)	Applicability and scope
14.4(507B)	Definitions
14.5(507B)	Policies to be illustrated
14.6(507B)	General rules and prohibitions
14.7(507B)	Standards for basic illustrations
14.8(507B)	Standards for supplemental illustrations
14.9(507B)	Delivery of illustration and record retention

14.10(507B)	Annual report; notice to policyowners
14.11(507B)	Annual certifications
14.12(507B)	Penalties
14.13(507B)	Separability
14.14(507B)	Effective date

CHAPTER 15 UNFAIR TRADE PRACTICES

DIVISION I SALES PRACTICES

15.1(507B)	Purpose
15.2(507B)	Definitions
15.3(507B)	Advertising
15.4(507B)	Life insurance cost and benefit disclosure requirements
15.5(507B)	Health insurance sales to individuals 65 years of age or older
15.6(507B)	Preneed funeral contracts or prearrangements
15.7(507B)	Twisting prohibited
15.8(507B)	Producer responsibilities
15.9(507B)	Right to return a life insurance policy or annuity (free look)
15.10(507B)	Uninsured/underinsured automobile coverage—notice required
15.11(507B)	Unfair discrimination
15.12(507B)	Testing restrictions of insurance applications for the human immunodeficiency virus
15.13(507B)	Records maintenance
15.14(505,507B)	Enforcement section—cease and desist and penalty orders
15.15 to 15.30	Reserved

DIVISION II CLAIMS

15.31(507B)	General claims settlement guidelines
15.32(507B)	Prompt payment of certain health claims
15.33(507B)	Audit procedures for medical claims
15.34 to 15.40	Reserved
15.41(507B)	Claims settlement guidelines for property and casualty insurance
15.42(507B)	Acknowledgment of communications by property and casualty insurers
15.43(507B)	Standards for settlement of automobile insurance claims
15.44(507B)	Standards for determining replacement cost and actual cost values
15.45(507B)	Guidelines for use of aftermarket crash parts in motor vehicles
15.46 to 15.50	Reserved

DIVISION III DISCLOSURE FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

15.51(507B)	Purpose
15.52(507B)	Definition
15.53(507B)	Exemptions
15.54(507B)	Disclosure requirements
15.55(507B)	Insurer duties
15.56 to 15.60	Reserved

DIVISION IV ANNUITY DISCLOSURE REQUIREMENTS

15.61(507B)	Purpose
15.62(507B)	Applicability and scope
15.63(507B)	Definitions
15.64(507B)	Standards for delivery of disclosure document and Buyer's Guide

- 15.65(507B) Content of disclosure documents
- 15.66(507B) Report to contract owners
- 15.67(507B) Severability

DIVISION V
SUITABILITY IN ANNUITY TRANSACTIONS

- 15.68(507B) Purpose
- 15.69(507B) Applicability and scope
- 15.70(507B) Definitions
- 15.71(507B) Duties of insurers and of insurance producers
- 15.72(507B) Mitigation of responsibility
- 15.73(507B) Record keeping
- 15.74 to 15.79 Reserved

DIVISION VI
INDEXED PRODUCTS TRAINING REQUIREMENT

- 15.80(507B,522B) Purpose
- 15.81(507B,522B) Definitions
- 15.82(507B,522B) Special training required
- 15.83(507B,522B) Conduct of training course
- 15.84(507B,522B) Insurer duties
- 15.85(507B,522B) Verification of training
- 15.86(507B,522B) Penalties
- 15.87(507B,522B) Compliance date

CHAPTER 16
REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

DIVISION I

- 16.1 to 16.20 Reserved

DIVISION II

- 16.21(507B) Purpose
- 16.22(507B) Definitions
- 16.23(507B) Exemptions
- 16.24(507B) Duties of producers
- 16.25(507B) Duties of all insurers that use producers on or after January 1, 2001
- 16.26(507B) Duties of replacing insurers that use producers
- 16.27(507B) Duties of the existing insurer
- 16.28(507B) Duties of insurers with respect to direct-response solicitations
- 16.29(507B) Violations and penalties
- 16.30(507B) Severability

CHAPTER 17
LIFE AND HEALTH REINSURANCE AGREEMENTS

- 17.1(508) Authority and purpose
- 17.2(508) Scope
- 17.3(508) Accounting requirements
- 17.4(508) Written agreements
- 17.5(508) Existing agreements

CHAPTER 18
CEMETERIES

- 18.1(523I,566A) Perpetual care cemeteries
- 18.2(523I,566A) Administration
- 18.3(523I,566A) Public access to hearings

- 18.4 Reserved
- 18.5(523I,566A) Forms—content
- 18.6(523I,566A) Annual report by perpetual care cemeteries
- 18.7(523I,566A) Annual reports and perpetual care cemetery permits

CHAPTER 19

Reserved

PROPERTY AND CASUALTY INSURANCE

CHAPTER 20

PROPERTY AND CASUALTY INSURANCE RATE AND FORM FILING PROCEDURES

DIVISION I

FORM AND RATE REQUIREMENTS

- 20.1(505,509,514A,515,515A,515F) General filing requirements
- 20.2(505) Objection to filing
- 20.3 Reserved
- 20.4(505,509,514A,515,515A,515F) Policy form filing
- 20.5(515A) Rate or manual rule filing
- 20.6(515A) Exemption from filing requirement
- 20.7 Reserved
- 20.8(515A) Rate filings for crop-hail insurance
- 20.9 and 20.10 Reserved
- 20.11(515) Exemption from form and rate filing requirements
- 20.12 to 20.40 Reserved

DIVISION II

IOWA FAIR PLAN ACT

- 20.41(515,515F) Purpose
- 20.42(515,515F) Scope
- 20.43(515,515F) Definitions
- 20.44(515,515F) Eligible risks
- 20.45(515,515F) Membership
- 20.46(515,515F) Administration
- 20.47(515,515F) Duties of the governing committee
- 20.48(515,515F) Annual and special meetings
- 20.49(515,515F) Application for insurance
- 20.50(515,515F) Inspection procedure
- 20.51(515,515F) Procedure after inspection and receipt of application
- 20.52(515,515F) Reasonable underwriting standards for property coverage
- 20.53(515,515F) Reasonable underwriting standards for liability coverage
- 20.54(515,515F) Cancellation; nonrenewal and limitations; review of eligibility
- 20.55(515,515F) Assessments
- 20.56(515,515F) Commission
- 20.57(515,515F) Public education
- 20.58(515,515F) Cooperation and authority of producers
- 20.59(515,515F) Review by commissioner
- 20.60(515,515F) Indemnification

CHAPTER 21

REQUIREMENTS FOR EXCESS AND SURPLUS LINES,
RISK RETENTION GROUPS AND PURCHASING GROUPS

- 21.1(515) Definitions
- 21.2(515) Qualified surplus lines carriers' duties

- 21.3(515) Producers' duties
- 21.4(515) Producers' duty to insured; evidence of coverage
- 21.5(515) Procedures for qualification and renewal of a nonadmitted insurer as a qualified surplus lines carrier
- 21.6(515E) Risk retention groups
- 21.7(515E) Procedures for qualification as a risk retention group
- 21.8(515E) Procedures for qualification as a purchasing group
- 21.9(515,515E) Failure to comply; penalties

CHAPTER 22

FINANCIAL GUARANTY INSURANCE

- 22.1(515C) Definitions
- 22.2(515) Financial requirements and reserves

CHAPTER 23

MOTOR VEHICLE SERVICE CONTRACTS

- 23.1(516E) Purpose
- 23.2(516E) Applicability and scope
- 23.3(516E) Application of insurance laws
- 23.4(516E) Administration
- 23.5(516E) Public access to hearings
- 23.6(516E) Public access to records
- 23.7(516E) Filing procedures
- 23.8(516E) Fees
- 23.9(516E) Forms
- 23.10(516E) Prohibited acts—unfair discrimination or trade practices
- 23.11(516E) Prohibited acts—unfair or deceptive trade practices involving used or rebuilt parts
- 23.12(516E) Violations
- 23.13(516E) Procedures for public complaints

CHAPTER 24

IOWA RETIREMENT FACILITIES

- 24.1(523D) Purpose
- 24.2(523D) Title
- 24.3(523D) Definitions
- 24.4(523D) Administration
- 24.5(523D) Misrepresentations
- 24.6(523D) Complaints
- 24.7(523D) Address for filings
- 24.8(523D) Fees
- 24.9(523D) Forms
- 24.10(523D) Financial statements, studies, and forecasts
- 24.11(523D) Amendments to the disclosure statement
- 24.12(523D) Standards for the disclosure statement

CHAPTER 25

MILITARY SALES PRACTICES

- 25.1(505) Purpose and authority
- 25.2(505) Scope
- 25.3(505) Exemptions
- 25.4(505) Definitions
- 25.5(505) Practices declared false, misleading, deceptive or unfair on a military installation
- 25.6(505) Practices declared false, misleading, deceptive or unfair regardless of location

- 25.7(505) Reporting requirements
- 25.8(505) Violation and penalties
- 25.9(505) Severability

CHAPTER 26

Reserved

CHAPTER 27

PREFERRED PROVIDER ARRANGEMENTS

- 27.1(514F) Purpose
- 27.2(514F) Definitions
- 27.3(514F) Preferred provider arrangements
- 27.4(514F) Health benefit plans
- 27.5(514F) Preferred provider participation requirements
- 27.6(514F) General requirements
- 27.7(514F) Civil penalties
- 27.8(514F) Health care insurer requirements

CHAPTER 28

CREDIT LIFE AND CREDIT
ACCIDENT AND HEALTH INSURANCE

- 28.1(509) Purpose
- 28.2(509) Definitions
- 28.3(509) Rights and treatment of debtors
- 28.4(509) Policy forms and related material
- 28.5(509) Determination of reasonableness of benefits in relation to premium charge
- 28.6 Reserved
- 28.7(509) Credit life insurance rates
- 28.8(509) Credit accident and health insurance
- 28.9(509) Refund formulas
- 28.10(509) Experience reports and adjustment of prima facie rates
- 28.11(509) Use of rates—direct business only
- 28.12(509) Supervision of credit insurance operations
- 28.13(509) Prohibited transactions
- 28.14(509) Disclosure and readability
- 28.15(509) Severability
- 28.16(509) Effective date
- 28.17(509) Fifteen-day free examination

CHAPTER 29

CONTINUATION RIGHTS UNDER GROUP ACCIDENT
AND HEALTH INSURANCE POLICIES

- 29.1(509B) Definitions
- 29.2(509B) Notice regarding continuation rights
- 29.3(509B) Qualifying events for continuation rights
- 29.4(509B) Interplay between chapter 509B and COBRA
- 29.5(509B) Effective date for compliance

LIFE AND HEALTH INSURANCE

CHAPTER 30

LIFE INSURANCE POLICIES

- 30.1(508) Purpose
- 30.2(508) Scope

30.3(508)	Definitions
30.4(508)	Prohibitions, regulations and disclosure requirements
30.5(508)	General filing requirements
30.6(508)	Back dating of life policies
30.7(508,515)	Expiration date of policy vs. charter expiration date
30.8(509)	Electronic delivery of group life insurance certificates

CHAPTER 31

LIFE INSURANCE COMPANIES—VARIABLE ANNUITIES CONTRACTS

31.1(508)	Definitions
31.2(508)	Insurance company qualifications
31.3(508)	Filing, policy forms and provision
31.4(508)	Separate account or accounts and investments
31.5(508)	Required reports
31.6(508)	Producers
31.7(508)	Foreign companies

CHAPTER 32

DEPOSITS BY A DOMESTIC LIFE COMPANY IN A
CUSTODIAN BANK OR CLEARING CORPORATION

32.1(508)	Purpose
32.2(508)	Definitions
32.3(508)	Requirements upon custodial account and custodial agreement
32.4(508)	Requirements upon custodians
32.5(508,511)	Deposit of securities

CHAPTER 33

VARIABLE LIFE INSURANCE MODEL REGULATION

33.1(508A)	Authority
33.2(508A)	Definitions
33.3(508A)	Qualification of insurer to issue variable life insurance
33.4(508A)	Insurance policy requirements
33.5(508A)	Reserve liabilities for variable life insurance
33.6(508A)	Separate accounts
33.7(508A)	Information furnished to applicants
33.8(508A)	Applications
33.9(508A)	Reports to policyholders
33.10(508A)	Foreign companies
33.11	Reserved
33.12(508A)	Separability article

CHAPTER 34

NONPROFIT HEALTH SERVICE CORPORATIONS

34.1(514)	Purpose
34.2(514)	Definitions
34.3(514)	Annual report requirements
34.4(514)	Arbitration
34.5(514)	Filing requirements
34.6(514)	Participating hospital contracts
34.7(514)	Composition, nomination, and election of board of directors

CHAPTER 35
ACCIDENT AND HEALTH INSURANCE

BLANKET ACCIDENT AND SICKNESS INSURANCE

35.1(509)	Purpose
35.2(509)	Scope
35.3(509)	Definitions
35.4(509)	Required provisions
35.5(509)	Application and certificates not required
35.6(509)	Facility of payment
35.7(509)	General filing requirements
35.8(509)	Electronic delivery of accident and health group insurance certificates
35.9 to 35.19	Reserved
35.20(509A)	Life and health self-funded plans
35.21(509)	Review of certificates issued under group policies

LARGE GROUP HEALTH INSURANCE COVERAGE

35.22(509)	Purpose
35.23(509)	Definitions
35.24(509)	Eligibility to enroll
35.25(509)	Special enrollments
35.26(509)	Group health insurance coverage policy requirements
35.27(509)	Methods of counting creditable coverage
35.28(509)	Certificates of creditable coverage
35.29(509)	Notification requirements
35.30	Reserved
35.31(509)	Disclosure requirements
35.32(514C)	Treatment options
35.33(514C)	Emergency services
35.34(514C)	Provider access
35.35(509)	Reconstructive surgery

CONSUMER GUIDE

35.36(514K)	Purpose
35.37(514K)	Information filing requirements
35.38(514K)	Limitation of information published
35.39(514C)	Contraceptive coverage

CHAPTER 36
INDIVIDUAL

ACCIDENT AND HEALTH—MINIMUM STANDARDS

36.1(514D)	Purpose
36.2(514D)	Applicability and scope
36.3(514D)	Effective date
36.4(514D)	Policy definitions
36.5(514D)	Prohibited policy provisions
36.6(514D)	Accident and sickness minimum standards for benefits
36.7(514D)	Required disclosure provisions
36.8(507B)	Requirements for replacement
36.9(514D)	Filing requirements
36.10(514D)	Loss ratios
36.11(514D)	Certification
36.12(514D)	Severability

CHAPTER 37
MEDICARE SUPPLEMENT INSURANCE

DIVISION I
MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

- 37.1(514D) Purpose
- 37.2(514D) Applicability and scope
- 37.3(514D) Definitions
- 37.4(514D) Policy definitions and terms
- 37.5(514D) Policy provisions
- 37.6(514D) Minimum benefit standards for prestandardized Medicare supplement benefit plan policies or certificates issued for delivery prior to January 1, 1992
- 37.7(514D) Benefit standards for 1990 standardized Medicare supplement benefit plan policies or certificates issued for delivery on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010
- 37.8(514D) Benefit standards for 2010 standardized Medicare supplement benefit plan policies or certificates issued for delivery with an effective date for coverage on or after June 1, 2010
- 37.9(514D) Standard Medicare supplement benefit plans for 1990 standardized Medicare supplement benefit plan policies or certificates with an effective date for coverage prior to June 1, 2010
- 37.10(514D) Standard Medicare supplement benefit plans for 2010 standardized Medicare supplement benefit plan policies or certificates with an effective date for coverage on or after June 1, 2010
- 37.11(514D) Medicare Select policies and certificates
- 37.12(514D) Open enrollment
- 37.13(514D) Standards for claims payment
- 37.14(514D) Loss ratio standards and refund or credit of premium
- 37.15(514D) Filing and approval of policies and certificates and premium rates
- 37.16(514D) Permitted compensation arrangements
- 37.17(514D) Required disclosure provisions
- 37.18(514D) Requirements for application forms and replacement coverage
- 37.19(514D) Standards for marketing
- 37.20(514D) Appropriateness of recommended purchase and excessive insurance
- 37.21(514D) Reporting of multiple policies
- 37.22(514D) Prohibition against preexisting conditions, waiting periods, elimination periods and probationary periods in replacement policies or certificates
- 37.23(514D) Prohibition against use of genetic information and requests for genetic testing
- 37.24(514D) Prohibition against using SHIP prepared materials
- 37.25(514D) Guaranteed issue for eligible persons
- 37.26(514D) Severability
- 37.27 to 37.49 Reserved

DIVISION II
MEDICARE SUPPLEMENT ADVERTISING

- 37.50(507B,514D) Purpose
- 37.51(507B,514D) Applicability
- 37.52(507B,514D) Definitions
- 37.53(507B,514D) Form and content of advertisements
- 37.54(507B,514D) Testimonials or endorsements by third parties
- 37.55(507B,514D) Use of statistics; jurisdictional licensing; status of insurer
- 37.56(507B,514D) Identity of insurer
- 37.57(507B,514D) Introductory, initial or special offers

- 37.58(507B,514D) Enforcement procedures—certificate of compliance
 37.59(507B,514D) Filing for prior review

CHAPTER 38
 COORDINATION OF BENEFITS

DIVISION I

- 38.1(509,514) Purpose
 38.2(509,514) Applicability
 38.3(509,514) Definitions
 38.4(509,514) Model COB contract provision
 38.5(509,514) Order of benefits
 38.6(509,514) Reduction in a plan's benefits when it is secondary—general
 38.7(509,514) Reasonable cash value of services
 38.8(509,514) Excess and other nonconforming provisions
 38.9(509,514) Allowable expense
 38.10(509,514) Subrogation
 38.11(509,514) Effective date—existing contracts

DIVISION II

- 38.12(509,514) Purpose and applicability
 38.13(509,514) Definitions
 38.14(509,514) Use of model COB contract provision
 38.15(509,514) Rules for coordination of benefits
 38.16(509,514) Procedure to be followed by secondary plan to calculate benefits and pay a claim
 38.17(509,514) Notice to covered persons
 38.18(509,514) Miscellaneous provisions
 38.19(509,514) Effective date for existing contracts

CHAPTER 39
 LONG-TERM CARE INSURANCE

DIVISION I

- 39.1(514G) Purpose
 39.2(514G) Authority
 39.3(514G) Applicability and scope
 39.4(514G) Definitions
 39.5(514G) Policy definitions
 39.6(514G) Policy practices and provisions
 39.7(514G) Required disclosure provisions
 39.8(514G) Prohibition against postclaims underwriting
 39.9(514D,514G) Minimum standards for home health care benefits in long-term care insurance policies
 39.10(514D,514G) Requirement to offer inflation protection
 39.11(514D,514G) Requirements for application forms and replacement coverage
 39.12(514G) Reserve standards
 39.13(514D) Loss ratio
 39.14(514G) Filing requirement
 39.15(514D,514G) Standards for marketing
 39.16(514D,514G) Suitability
 39.17(514G) Prohibition against preexisting conditions and probationary periods in replacement policies or certificates
 39.18(514G) Standard format outline of coverage
 39.19(514G) Requirement to deliver shopper's guide

39.20(514G)	Policy summary and delivery of life insurance policies with long-term care riders
39.21(514G)	Reporting requirement for long-term care benefits funded through life insurance by acceleration of the death benefit
39.22(514G)	Unintentional lapse
39.23(514G)	Denial of claims
39.24(514G)	Incontestability period
39.25(514G)	Required disclosure of rating practices to consumers
39.26(514G)	Initial filing requirements
39.27(514G)	Reporting requirements
39.28(514G)	Premium rate schedule increases
39.29(514G)	Nonforfeiture
39.30(514G)	Standards for benefit triggers
39.31(514G)	Additional standards for benefit triggers for qualified long-term care insurance contracts
39.32(514G)	Penalties
39.33 to 39.40	Reserved

DIVISION II

INDEPENDENT REVIEW OF BENEFIT TRIGGER DETERMINATIONS

39.41(514G)	Purpose
39.42(514G)	Effective date
39.43(514G)	Definitions
39.44(514G)	Notice of benefit trigger determination and content
39.45(514G)	Notice of internal appeal decision and right to independent review
39.46(514G)	Independent review request
39.47(514G)	Certification process
39.48(514G)	Selection of independent review entity
39.49(514G)	Independent review process
39.50(514G)	Decision notification
39.51(514G)	Insurer information
39.52(514G)	Certification of independent review entity
39.53(514G)	Additional requirements
39.54(514G)	Toll-free telephone number
39.55(514G)	Insurance division application and reports
39.56 to 39.74	Reserved

DIVISION III

LONG-TERM CARE PARTNERSHIP PROGRAM

39.75(514H,83GA,HF723)	Purpose
39.76(514H,83GA,HF723)	Effective date
39.77(514H,83GA,HF723)	Definitions
39.78(514H,83GA,HF723)	Eligibility
39.79(514H,83GA,HF723)	Discontinuance of partnership program
39.80(514H,83GA,HF723)	Required disclosures
39.81(514H,83GA,HF723)	Form filings
39.82(514H,83GA,HF723)	Exchanges
39.83(514H,83GA,HF723)	Required policy terms and disclosures
39.84(514H,83GA,HF723)	Standards for marketing and suitability
39.85(514H,83GA,HF723)	Required reports

CHAPTER 40
HEALTH MAINTENANCE ORGANIZATIONS

(Health and Insurance—Joint Rules)

40.1(514B)	Definitions
40.2(514B)	Application
40.3(514B)	Inspection of evidence of coverage
40.4(514B)	Governing body and enrollee representation
40.5(514B)	Quality of care
40.6(514B)	Change of name
40.7(514B)	Change of ownership
40.8(514B)	Termination of services
40.9(514B)	Complaints
40.10(514B)	Cancellation of enrollees
40.11(514B)	Application for certificate of authority
40.12(514B)	Net worth
40.13(514B)	Fidelity bond
40.14(514B)	Annual report
40.15(514B)	Cash or asset management agreements
40.16	Reserved
40.17(514B)	Reinsurance
40.18(514B)	Provider contracts
40.19(514B)	Producers' duties
40.20(514B)	Emergency services
40.21(514B)	Reimbursement
40.22(514B)	Health maintenance organization requirements
40.23(514B)	Disclosure requirements
40.24(514B)	Provider access
40.25(514B)	Electronic delivery of accident and health group insurance certificates

CHAPTER 41
LIMITED SERVICE ORGANIZATIONS

41.1(514B)	Definitions
41.2(514B)	Application
41.3(514B)	Inspection of evidence of coverage
41.4(514B)	Governing body and enrollee representation
41.5(514B)	Quality of care
41.6(514B)	Change of name
41.7(514B)	Change of ownership
41.8(514B)	Complaints
41.9(514B)	Cancellation of enrollees
41.10(514B)	Application for certificate of authority
41.11(514B)	Net equity and deposit requirements
41.12(514B)	Fidelity bond
41.13(514B)	Annual report
41.14(514B)	Cash or asset management agreements
41.15(514B)	Reinsurance
41.16(514B)	Provider contracts
41.17(514B)	Producers' duties
41.18(514B)	Emergency services
41.19(514B)	Reimbursement
41.20(514B)	Limited service organization requirements
41.21(514B)	Disclosure requirements

CHAPTER 42
GENDER-BLENDED MINIMUM NONFORFEITURE
STANDARDS FOR LIFE INSURANCE

42.1(508)	Purpose
42.2(508)	Definitions
42.3(508)	Use of gender-blended mortality tables
42.4(508)	Unfair discrimination
42.5(508)	Separability
42.6(508)	2001 CSO Mortality Table

CHAPTER 43
ANNUITY MORTALITY TABLES FOR USE IN
DETERMINING RESERVE LIABILITIES FOR ANNUITIES

43.1(508)	Purpose
43.2(508)	Definitions
43.3(508)	Individual annuity or pure endowment contracts
43.4(508)	Group annuity or pure endowment contracts
43.5(508)	Application of the 1994 GAR Table
43.6(508)	Separability

CHAPTER 44
SMOKER/NONSMOKER MORTALITY TABLES
FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES
AND NONFORFEITURE BENEFITS

44.1(508)	Purpose
44.2(508)	Definitions
44.3(508)	Alternate tables
44.4(508)	Conditions
44.5(508)	Separability
44.6(508)	2001 CSO Mortality Table

INSURANCE HOLDING COMPANY SYSTEMS

CHAPTER 45
INSURANCE HOLDING COMPANY SYSTEMS

45.1(521A)	Purpose
45.2(521A)	Definitions
45.3(521A)	Subsidiaries of domestic insurers
45.4(521A)	Control acquisition of domestic insurer
45.5(521A)	Registration of insurers
45.6(521A)	Alternative and consolidated registrations
45.7(521A)	Exemptions
45.8(521A)	Disclaimers and termination of registration
45.9(521A)	Transactions subject to prior notice—notice filing
45.10(521A)	Extraordinary dividends and other distributions

CHAPTER 46
MUTUAL HOLDING COMPANIES

46.1(521A)	Purpose
46.2(521A)	Definitions
46.3(521A)	Application—contents—process
46.4(521A)	Plan of reorganization
46.5(521A)	Duties of the commissioner
46.6(521A)	Regulation—compliance

- 46.7(521A) Reorganization of domestic mutual insurer with mutual insurance holding company
- 46.8(521A) Reorganization of foreign mutual insurer with mutual insurance holding company
- 46.9(521A) Mergers of mutual insurance holding companies
- 46.10(521A) Stock offerings
- 46.11(521A) Regulation of holding company system
- 46.12(521A) Reporting of stock ownership and transactions

CHAPTER 47

VALUATION OF LIFE INSURANCE POLICIES

(Including New Select Mortality Factors)

- 47.1(508) Purpose
- 47.2(508) Application
- 47.3(508) Definitions
- 47.4(508) General calculation requirements for basic reserves and premium deficiency reserves
- 47.5(508) Calculation of minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies)
- 47.6(508) Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyowner to keep a policy in force over a secondary guarantee period
- 47.7(508) 2001 CSO Mortality Table

VIATICAL AND LIFE SETTLEMENTS

CHAPTER 48

VIATICAL AND LIFE SETTLEMENTS

- 48.1(508E) Purpose and authority
- 48.2(508E) Definitions
- 48.3(508E) License requirements
- 48.4(508E) Disclosure statements
- 48.5(508E) Contract requirements
- 48.6(508E) Filing of forms
- 48.7(508E) Reporting requirements
- 48.8(508E) Examination or investigations
- 48.9(508E) Requirements and prohibitions
- 48.10(508E) Penalties; injunctions; civil remedies; cease and desist
- 48.11(252J) Suspension for failure to pay child support
- 48.12(261) Suspension for failure to pay student loan
- 48.13(272D) Suspension for failure to pay state debt
- 48.14(508E) Severability

CHAPTER 49

FINANCIAL INSTRUMENTS USED IN HEDGING TRANSACTIONS

- 49.1(511) Purpose
- 49.2(511) Definitions
- 49.3(511) Guidelines and internal control procedures
- 49.4(511) Documentation requirements
- 49.5(511) Trading requirements

SECURITIES

CHAPTER 50
REGULATION OF SECURITIES OFFERINGS AND THOSE WHO ENGAGE
IN THE SECURITIES BUSINESS

DIVISION I
DEFINITIONS AND ADMINISTRATION

50.1(502)	Definitions
50.2(502)	Cost of audit or inspection
50.3(502)	Interpretative opinions or no-action letters
50.4 to 50.9	Reserved

DIVISION II
REGISTRATION OF BROKER-DEALERS AND AGENTS

50.10(502)	Broker-dealer registrations, renewals, amendments, succession, and withdrawals
50.11(502)	Principals
50.12(502)	Agent and issuer registrations, renewals and amendments
50.13(502)	Agent continuing education requirements
50.14(502)	Broker-dealer record-keeping requirements
50.15(502)	Broker-dealer minimum financial requirements and financial reporting requirements
50.16(502)	Dishonest or unethical practices in the securities business
50.17(502)	Rules of conduct
50.18(502)	Limited registration of Canadian broker-dealers and agents
50.19(502)	Brokerage services by national and state banks
50.20(502)	Broker-dealers having contracts with national and state banks
50.21(502)	Brokerage services by credit unions, savings banks, and savings and loan institutions
50.22(502)	Broker-dealers having contracts with credit unions, savings banks, and savings and loan institutions
50.23 to 50.29	Reserved

DIVISION III
REGISTRATION OF INVESTMENT ADVISERS,
INVESTMENT ADVISER REPRESENTATIVES,
AND FEDERAL COVERED INVESTMENT ADVISERS

50.30(502)	Electronic filing with designated entity
50.31(502)	Investment adviser applications and renewals
50.32(502)	Application for investment adviser representative registration
50.33(502)	Examination requirements
50.34(502)	Notice filing requirements for federal covered investment advisers
50.35(502)	Withdrawal of investment adviser registration
50.36(502)	Investment adviser disclosure statement
50.37(502)	Cash solicitation
50.38(502)	Dishonest or unethical business practices of investment advisers and investment adviser representatives, or fraudulent or deceptive conduct by federal covered investment advisers
50.39(502)	Custody of client funds or securities by investment advisers
50.40(502)	Minimum financial requirements for investment advisers
50.41(502)	Bonding requirements for investment advisers
50.42(502)	Record-keeping requirements for investment advisers
50.43(502)	Financial reporting requirements for investment advisers
50.44(502)	Solely incidental services by certain professionals
50.45 to 50.49	Reserved

DIVISION IV
RULES COVERING ALL REGISTERED PERSONS

- 50.50(502) Internet advertising by broker-dealers, investment advisers, broker-dealer agents, investment adviser representatives, and federal covered investment advisers
- 50.51(502) Consent to service
- 50.52(252J) Denial, suspension or revocation of agent or investment adviser representative registration for failure to pay child support
- 50.53(261) Denial, suspension or revocation of agent or investment adviser representative registration for failure to pay debts owed to or collected by the college student aid commission
- 50.54(502) Use of senior-specific certifications and professional designations
- 50.55 to 50.59 Reserved

DIVISION V
REGISTRATION OF SECURITIES

- 50.60(502) Notice filings for investment company securities offerings
- 50.61(502) Registration of small corporate offerings
- 50.62(502) Streamlined registration for certain equity securities
- 50.63(502) Registration of multijurisdictional offerings
- 50.64(502) Form of financial statements
- 50.65(502) Reports contingent to registration by qualification
- 50.66(502) NASAA guidelines and statements of policy
- 50.67(502) Amendments to registration by qualification
- 50.68(502) Delivery of prospectus
- 50.69(502) Advertisements
- 50.70 to 50.79 Reserved

DIVISION VI
EXEMPTIONS

- 50.80(502) Uniform limited offering exemption
- 50.81(502) Notice filings for Rule 506 offerings
- 50.82(502) Notice filings for agricultural cooperative associations
- 50.83(502) Unsolicited order exemption
- 50.84(502) Solicitation of interest exemption
- 50.85(502) Internet offers exemption
- 50.86(502) Denial, suspension, revocation, condition, or limitation of limited offering transaction exemption
- 50.87(502) Nonprofit securities exemption
- 50.88(502) Transactions with specified investors
- 50.89 to 50.99 Reserved

DIVISION VII
FRAUD AND OTHER PROHIBITED CONDUCT

- 50.100(502) Fraudulent practices
- 50.101(502) Rescission offers
- 50.102(502) Fraudulent, deceptive or manipulative act, practice, or course of business in providing investment advice
- 50.103(502) Investment advisory contracts
- 50.104 to 50.109 Reserved

DIVISION VIII
VIATICAL SETTLEMENT INVESTMENT CONTRACTS

- 50.110(502) Application by viatical settlement investment contract issuers and registration of agents to sell viatical settlement investment contracts
- 50.111(502) Risk disclosure

- 50.112(502) Advertising of viatical settlement investment contracts
- 50.113(502) Duty to disclose

CHAPTERS 51 to 53

Reserved

CHAPTER 54

RESIDENTIAL SERVICE CONTRACTS

- 54.1(523C) Purpose
- 54.2(523C) Definitions
- 54.3(523C) Title
- 54.4(523C) Scope
- 54.5(523C) Application of insurance laws
- 54.6(523C) Exemptions
- 54.7 to 54.9 Reserved
- 54.10(523C) Administration
- 54.11(523C) Misrepresentations of government approval
- 54.12(523C) Public access to hearings
- 54.13(523C) Public access to records
- 54.14(523C) Procedure for public complaints
- 54.15(523C) Fees
- 54.16(523C) Forms
- 54.17 to 54.19 Reserved
- 54.20(523C) Service company licenses
- 54.21(523C) Suspension or revocation of license
- 54.22(523C) Licenses not transferable
- 54.23 to 54.29 Reserved
- 54.30(523C) Forms of contracts
- 54.31 to 54.39 Reserved
- 54.40(523C) Cessation of business—records
- 54.41(523C) Records
- 54.42(523C) Annual reports
- 54.43 to 54.49 Reserved
- 54.50(523C) Prohibited acts or practices
- 54.51(523C) Orders
- 54.52(523C) Investigations and subpoenas
- 54.53(523C) Audits

CHAPTER 55

LICENSING OF PUBLIC ADJUSTERS

- 55.1(82GA,HF499) Purpose
- 55.2(82GA,HF499) Definitions
- 55.3(82GA,HF499) License required to operate as public adjuster
- 55.4(82GA,HF499) Application for license
- 55.5(82GA,HF499) Issuance of resident license
- 55.6(82GA,HF499) Public adjuster examination
- 55.7(82GA,HF499) Exemptions from examination
- 55.8(82GA,HF499) Nonresident license reciprocity
- 55.9(82GA,HF499) Terms of licensure
- 55.10(82GA,HF499) Evidence of financial responsibility
- 55.11(82GA,HF499) Continuing education
- 55.12(82GA,HF499) License denial, nonrenewal or revocation

55.13(82GA,HF499)	Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance
55.14(82GA,HF499)	Contract between public adjuster and insured
55.15(82GA,HF499)	Escrow accounts
55.16(82GA,HF499)	Record retention
55.17(82GA,HF499)	Standards of conduct of public adjuster
55.18(82GA,HF499)	Public adjuster fees
55.19(82GA,HF499)	Penalties
55.20(82GA,HF499)	Fees
55.21(82GA,HF499)	Severability

CHAPTER 56

WORKERS' COMPENSATION GROUP SELF-INSURANCE

56.1(87,505)	General provisions
56.2(87,505)	Definitions
56.3(87,505)	Requirements for self-insurance
56.4	Reserved
56.5(87,505)	Excess insurance
56.6(87,505)	Rates and reporting of rates
56.7(87,505)	Special provisions
56.8(87,505)	Certificate of approval; termination
56.9(87,505)	Examinations
56.10(87,505)	Board of trustees—membership, powers, duties, and prohibitions
56.11(87,505)	Association membership; termination; liability
56.12(87,505)	Requirements of sales agents
56.13(87,505)	Requirements for continued approval
56.14(87,505)	Misrepresentation prohibited
56.15(87,505)	Investments
56.16(87,505)	Refunds
56.17(87,505)	Premium payment; reserves
56.18(87,505)	Deficits and insolvencies
56.19(87,505)	Grounds for nonrenewal or revocation of a certificate of relief from insurance
56.20(87,505)	Hearing and appeal
56.21(87,505)	Existing approved self-insurers
56.22(87,505)	Severability clause

CHAPTER 57

WORKERS' COMPENSATION SELF-INSURANCE FOR INDIVIDUAL EMPLOYERS

57.1(87,505)	General provisions
57.2(87,505)	Definitions
57.3(87,505)	Requirements for self-insurance
57.4(87,505)	Additional security requirements
57.5(87,505)	Application for an individual self-insurer
57.6	Reserved
57.7(87,505)	Excess insurance
57.8(87,505)	Insolvency
57.9(87,505)	Renewals
57.10(87,505)	Periodic examination
57.11(87,505)	Grounds for nonrenewal or revocation of a certificate of relief from insurance
57.12(87,505)	Hearing and appeal

- 57.13(87,505) Existing approved self-insurers
 57.14(87,505) Severability clause

CHAPTER 58
 THIRD-PARTY ADMINISTRATORS

- 58.1(510) Purpose
 58.2(510) Definitions
 58.3(505,510) Registration required
 58.4(510) Third-party administrator duties
 58.5(510) Renewal procedure
 58.6(505,510) Responsibilities of the insurer
 58.7(505,510) Written agreement
 58.8(510) Compensation to the third-party administrator
 58.9(510) Disclosure of charges and fees
 58.10(510) Delivery of materials to covered individuals
 58.11(510) Annual report and fee
 58.12(510) Change of information
 58.13(510) Inquiry by commissioner
 58.14(510) Complaints
 58.15(510) Periodic examination
 58.16(510) Grounds for denial, nonrenewal, suspension or revocation of certificate of registration
 58.17(510) Confidential information
 58.18(510) Fees
 58.19(510) Severability clause
 58.20(510) Compliance date

CHAPTER 59
 PHARMACY BENEFITS MANAGERS

- 59.1(510B) Purpose
 59.2(510B) Definitions
 59.3(510B) Timely payment of pharmacy claims
 59.4(510B) Study
 59.5(510B) Complaints
 59.6(510B) Auditing practices
 59.7(510B) Termination of pharmacy contracts

CHAPTER 60
 WORKERS' COMPENSATION INSURANCE RATE FILING PROCEDURES

- 60.1(515A) Purpose
 60.2(515A) Definitions, scope, authority
 60.3(515A) General filing requirements
 60.4(515A) Rate or manual rule filing
 60.5(515A) Violation and penalties
 60.6(515A) Severability
 60.7(515A) Effective date

CHAPTERS 61 to 69
 Reserved

*MANAGED HEALTH CARE*CHAPTER 70
UTILIZATION REVIEW

- 70.1(505,514F) Purpose
- 70.2(505,514F) Definitions
- 70.3(505,514F) Application
- 70.4(505,514F) Standards
- 70.5(505,514F) Retroactive application
- 70.6(505,514F) Variances allowed
- 70.7(505,514F) Confidentiality
- 70.8(76GA,ch1202) Utilization review of postdelivery benefits and care
- 70.9(505,507B,514F) Enforcement
- 70.10(514F) Credentialing—retrospective payment

*HEALTH BENEFIT PLANS*CHAPTER 71
SMALL GROUP HEALTH BENEFIT PLANS

- 71.1(513B) Purpose
- 71.2(513B) Definitions
- 71.3(513B) Applicability and scope
- 71.4(513B) Establishment of classes of business
- 71.5(513B) Transition for assumptions of business from another carrier
- 71.6(513B) Restrictions relating to premium rates
- 71.7(513B) Requirement to insure entire groups
- 71.8(513B) Case characteristics
- 71.9(513B) Application to reenter state
- 71.10(513B) Creditable coverage
- 71.11(513B) Rules related to fair marketing
- 71.12(513B) Status of carriers as small employer carriers
- 71.13(513B) Restoration of coverage
- 71.14(513B) Basic health benefit plan and standard health plan policy forms
- 71.15(513B) Methods of counting creditable coverage
- 71.16(513B) Certificates of creditable coverage
- 71.17(513B) Notification requirements
- 71.18(513B) Special enrollments
- 71.19(513B) Disclosure requirements
- 71.20(514C) Treatment options
- 71.21(514C) Emergency services
- 71.22(514C) Provider access
- 71.23(513B) Reconstructive surgery
- 71.24(514C) Contraceptive coverage
- 71.25(513B) Suspension of the small employer health reinsurance program
- 71.26(513B) Uniform health insurance application form

CHAPTER 72

LONG-TERM CARE ASSET PRESERVATION PROGRAM

- 72.1(249G) Purpose
- 72.2(249G) Applicability and scope
- 72.3(249G) Definitions
- 72.4(249G) Qualification of long-term care insurance policies and certificates
- 72.5(249G) Standards for marketing

72.6(249G)	Minimum benefit standards for qualifying policies and certificates
72.7(249G)	Required policy and certificate provisions
72.8(249G)	Prohibited provisions in certified policies or certificates
72.9(249G)	Reporting requirements
72.10(249G)	Maintaining auditing information
72.11(249G)	Reporting on asset protection
72.12(249G)	Preparing a service summary
72.13(249G)	Plan of action
72.14(249G)	Auditing and correcting deficiencies in issuer record keeping
72.15(249G)	Separability

CHAPTER 73

HEALTH INSURANCE PURCHASING COOPERATIVES

73.1(75GA,ch158)	Purpose
73.2(75GA,ch158)	Applicability and scope
73.3(75GA,ch158)	Definitions
73.4(75GA,ch158)	Division duties—application—filing requirements—license—audits and examinations
73.5(75GA,ch158)	Fidelity bond—letter of credit
73.6(75GA,ch158)	Annual report
73.7(75GA,ch158)	Business plan
73.8(75GA,ch158)	Participants
73.9(75GA,ch158)	Health insurance purchasing cooperative—product offerings—exemptions
73.10(75GA,ch158)	Insurance risk
73.11(75GA,ch158)	Rates
73.12(75GA,ch158)	Election—disclosure and confidentiality
73.13(75GA,ch158)	Structure—merger and consolidation
73.14(75GA,ch158)	Conflict of interest
73.15(75GA,ch158)	Nondiscrimination and retaliatory protections
73.16(75GA,ch158)	Annual health insurance or health care benefits plan selection
73.17(75GA,ch158)	License subject to conditions—waivers
73.18(75GA,ch158)	Procedures
73.19(75GA,ch158)	Data collection—quality evaluation
73.20(75GA,ch158)	Examination—costs
73.21(75GA,ch158)	Trade practices
73.22(75GA,ch158)	Grounds for denial, nonrenewal, suspension or revocation of certificate
73.23(75GA,ch158)	Hearing and appeal
73.24(75GA,ch158)	Solvency

CHAPTER 74

HEALTH CARE ACCESS

74.1(505)	Purpose
74.2(505)	Applicability and scope
74.3(505)	Definitions
74.4(505)	Access to health care or health insurance for an employee
74.5(505)	Employer participation
74.6(505)	Violation of chapter

CHAPTER 75

IOWA INDIVIDUAL HEALTH BENEFIT PLANS

75.1(513C)	Purpose
75.2(513C)	Definitions
75.3(513C)	Applicability and scope

75.4(513C)	Establishment of blocks of business
75.5(513C)	Transition for assumptions of business from another carrier or ODS
75.6(513C)	Restrictions relating to premium rates
75.7(513C)	Availability of coverage
75.8(513C)	Disclosure of information
75.9(513C)	Standards to ensure fair marketing
75.10(513C)	Basic health benefit plan and standard health benefit plan policy forms
75.11(513C)	Maternity benefit rider
75.12(513C)	Disclosure requirements
75.13(514C)	Treatment options
75.14(514C)	Emergency services
75.15(514C)	Provider access
75.16(514C)	Diabetic coverage
75.17(513C)	Reconstructive surgery
75.18(514C)	Contraceptive coverage

CHAPTER 76 EXTERNAL REVIEW

76.1(514J)	Purpose
76.2(514J)	Applicable law
76.3(514J)	Notice of coverage decision and content
76.4(514J)	External review request
76.5(514J)	Certification process
76.6(514J)	Expedited review
76.7(514J)	Decision notification
76.8(514J)	Carrier information
76.9(514J)	Certification of independent review entity

CHAPTER 77 MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

77.1(507A)	Certificate of registration
77.2(507A)	Application for certificate of registration
77.3(507A)	Financial requirements
77.4(507A)	Policy or contract
77.5(507A)	Disclosure
77.6(507A)	Filing fee
77.7(507A)	Agreements and management contracts
77.8(507A)	Examination
77.9(507A)	Trade practices
77.10(507A)	Insolvency
77.11(507A)	Suspension or revocation of certificate

CHAPTER 78 UNIFORM PRESCRIPTION DRUG INFORMATION CARD

78.1(514L)	Purpose
78.2(514L)	Definitions
78.3(514L)	Implementation

CHAPTER 79 Reserved

*INSURANCE COVERAGE FOR
PEDIATRIC PREVENTIVE SERVICES*

CHAPTER 80
WELL-CHILD CARE

80.1(505,514H)	Purpose
80.2(505,514H)	Applicability and scope
80.3(505,514H)	Effective date
80.4(505,514H)	Policy definitions
80.5(505,514H)	Benefit plan

CHAPTER 81
POSTDELIVERY BENEFITS AND CARE

81.1(514C)	Purpose
81.2(514C)	Applicability and scope
81.3(514C)	Postdelivery benefits

CHAPTERS 82 to 89
Reserved

CHAPTER 90
FINANCIAL AND HEALTH INFORMATION REGULATION

90.1(505)	Purpose and scope
90.2(505)	Definitions

DIVISION I
RULES FOR FINANCIAL INFORMATION

90.3(505)	Initial privacy notice to consumers required
90.4(505)	Annual privacy notice to customers required
90.5(505)	Information to be included in privacy notices
90.6(505)	Form of opt-out notice to consumers and opt-out methods
90.7(505)	Revised privacy notices
90.8(505)	Delivery of notice
90.9(505)	Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties
90.10(505)	Limits on redisclosure and reuse of nonpublic personal financial information
90.11(505)	Limits on sharing account number information for marketing purposes
90.12(505)	Exception to opt-out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing
90.13(505)	Exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions
90.14(505)	Other exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information
90.15(505)	Notice through a Web site
90.16(505)	Licensee exception to notice requirement

DIVISION II
RULES FOR HEALTH INFORMATION

90.17(505)	Disclosure of nonpublic personal health information
90.18(505)	Authorizations
90.19(505)	Delivery of authorization request
90.20(505)	Relationship to federal rules
90.21(505)	Relationship to state laws
90.22(505)	Protection of Fair Credit Reporting Act
90.23(505)	Nondiscrimination

90.24(505)	Severability
90.25(505)	Penalties
90.26(505)	Effective dates
90.27 to 90.36	Reserved

DIVISION III
SAFEGUARDING CUSTOMER INFORMATION

90.37(505)	Information security program
90.38(505)	Examples of methods of development and implementation
90.39(505)	Penalties
90.40(505)	Effective date

CHAPTER 91
2001 CSO MORTALITY TABLE

91.1(508)	Purpose
91.2(508)	Definitions
91.3(508)	2001 CSO Mortality Table
91.4(508)	Conditions
91.5(508)	Applicability of the 2001 CSO Mortality Table to 191—Chapter 47, Valuation of Life Insurance Policies
91.6(508)	Gender-blended table
91.7(508)	Separability

CHAPTER 92
UNIVERSAL LIFE INSURANCE

92.1(508)	Purpose and authority
92.2(508)	Definitions
92.3(508)	Scope
92.4(508)	Valuation
92.5(508)	Nonforfeiture
92.6(508)	Mandatory policy provisions
92.7(508)	Disclosure requirements
92.8(508)	Periodic disclosure to policyowner
92.9(508)	Interest-indexed universal life insurance policies
92.10(508)	Applicability

CHAPTER 93
CONDUIT DERIVATIVE TRANSACTIONS

93.1(511,521A)	Purposes
93.2(511,521A)	Definitions
93.3(511,521A)	Provisions not applicable
93.4(511,521A)	Standards for conduit derivative transactions
93.5(511,521A)	Internal controls
93.6(511,521A)	Reporting requirements for conduit derivative transactions
93.7(511,521A)	Conduit ownership
93.8(511,521A)	Exemption from applicability

CHAPTER 94
PREFERRED MORTALITY TABLES FOR USE
IN DETERMINING MINIMUM RESERVE LIABILITIES

94.1(508)	Purpose
94.2(508)	Definitions
94.3(508)	2001 CSO Preferred Class Structure Mortality Table

- 94.4(508) Conditions
- 94.5(508) Separability

CHAPTER 95

DETERMINING RESERVE LIABILITIES FOR PRENEED LIFE INSURANCE

- 95.1(508) Authority
- 95.2(508) Scope
- 95.3(508) Purpose
- 95.4(508) Definitions
- 95.5(508) Minimum valuation mortality standards
- 95.6(508) Minimum valuation interest rate standards
- 95.7(508) Minimum valuation method standards
- 95.8(508) Transition rules
- 95.9(508) Effective date

CHAPTER 96

Reserved

CHAPTER 97

ACCOUNTING FOR CERTAIN DERIVATIVE INSTRUMENTS USED TO HEDGE
THE GROWTH IN INTEREST CREDITED FOR INDEXED INSURANCE PRODUCTS
AND ACCOUNTING FOR THE INDEXED INSURANCE PRODUCTS RESERVE

- 97.1(508) Authority
- 97.2(508) Purpose
- 97.3(508) Definitions
- 97.4(508) Asset accounting
- 97.5(508) Indexed annuity product reserve calculation methodology
- 97.6(508) Indexed life product reserve calculation methodology
- 97.7(508) Other requirements

CHAPTER 98

ANNUAL FINANCIAL REPORTING REQUIREMENTS

- 98.1(505) Authority
- 98.2(505) Purpose
- 98.3(505) Definitions
- 98.4(505) General requirements related to filing and extensions for filing of annual audited financial reports and audit committee appointment
- 98.5(505) Contents of annual audited financial report
- 98.6(505) Designation of independent certified public accountant
- 98.7(505) Qualifications of independent certified public accountant
- 98.8(505) Consolidated or combined audits
- 98.9(505) Scope of audit and report of independent certified public accountant
- 98.10(505) Notification of adverse financial condition
- 98.11(505) Communication of Internal Control Related Matters Noted in an Audit
- 98.12(505) Definition, availability and maintenance of independent certified public accountants' work papers
- 98.13(505) Requirements for audit committees
- 98.14(505) Conduct of insurer in connection with the preparation of required reports and documents
- 98.15(505) Management's Report of Internal Control Over Financial Reporting
- 98.16(505) Exemptions
- 98.17(505) Letter to insurer with accountant's qualifications
- 98.18(505) Canadian and British companies

- 98.19(505) Severability provision
 98.20(505) Effective date

CHAPTER 99
 Reserved

REGULATED INDUSTRIES
 SALES OF CEMETERY MERCHANDISE, FUNERAL MERCHANDISE AND FUNERAL SERVICES

CHAPTER 100
 GENERAL PROVISIONS

- 100.1(523A) Purpose
 100.2(523A) Definitions
 100.3(523A) Contact and correspondence
 100.4(523A) Fees

CHAPTER 101
 TRUST DEPOSITS AND TRUST FUNDS

- 101.1(523A) Trust income withdrawals
 101.2(523A) Amount of trust income withdrawn
 101.3(523A) Allocation of trust income to purchasers' accounts
 101.4(523A) Credit for trust income withdrawn
 101.5(523A) Time period during which trust income may be withdrawn
 101.6(523A) Application of contract law
 101.7(523A) Consumer price index adjustment
 101.8(523A) Cancellation refunds

CHAPTER 102
 WAREHOUSED MERCHANDISE

- 102.1(523A) Funeral and cemetery merchandise delivered to the purchaser or warehoused
 102.2(523A) Storage facilities

CHAPTER 103
 LICENSING OF PRENEED SELLERS AND SALES AGENTS

- 103.1(523A) Requirement for a preneed seller license or a sales agent license
 103.2(523A) Application and licensing of preneed seller or sales agent
 103.3(523A) Change of ownership or sale of business of preneed seller
 103.4(523A) License renewal
 103.5(523A) Denial of license applications or of applications for renewal
 103.6(523A) Reinstatement or reissuance of a license after suspension, revocation or forfeiture
 in connection with disciplinary matters; and forfeiture in lieu of compliance
 103.7(252J) Suspension for failure to pay child support
 103.8(261) Suspension for failure to pay student loan

CHAPTER 104
 CONTINUING EDUCATION FOR SALES AGENTS

- 104.1(523A) Continuing education requirements
 104.2(523A) Acceptable areas of continuing education
 104.3(523A) Academic coursework
 104.4(523A) Effective date
 104.5(523A) Compliance period
 104.6(523A) Denial of sales agent license renewal application
 104.7(523A) Disqualification and replacement of credits
 104.8(523A) Current mailing address
 104.9(523A) Proof of completion of continuing education requirements

- 104.10(523A) Standards for continuing education activities
- 104.11(523A) Qualifications of presenters and proof of attendance
- 104.12(523A) Reviews
- 104.13(523A) Exemption

CHAPTER 105

STANDARDS OF CONDUCT AND PROHIBITED PRACTICES

- 105.1(523A) Purpose
- 105.2(523A) Numbering purchase agreements
- 105.3(523A) Records maintenance
- 105.4(523A) Annual reports
- 105.5(523A) Fidelity bond or insurance
- 105.6(523A) Grounds for discipline
- 105.7(523A) Prohibition on sales activities and practices without a license or without an appointment

CHAPTER 106

DISCIPLINARY PROCEDURES

- 106.1(523A) Investigations
- 106.2(17A,523A) Penalties
- 106.3(17A,523A) Administrative procedures

INSURANCE PRODUCERS
CHAPTER 10
LICENSING OF INSURANCE PRODUCERS

DIVISION I
LICENSING OF INSURANCE PRODUCERS

191—10.1(522B) Purpose and authority.

10.1(1) The purpose of these rules is to set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers.

10.1(2) These rules are authorized by Iowa Code section 505.8 and are intended to implement Iowa Code chapters 252J, 261 and 522B.

191—10.2(522B) Definitions.

“Appointment” means a notification filed with the division or its designated vendor that an insurer has established an agency relationship with a producer. A company filing such a request must verify that the producer is licensed for the appropriate line(s) of authority.

“Birth month” means the month in which a producer was born.

“Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

“Commissioner” means the Iowa insurance commissioner.

“CSAC” means college student aid commission.

“CSRU” means child support recovery unit.

“Division” means the Iowa insurance division.

“Home state” means the District of Columbia and any state or territory of the United States in which a producer maintains the producer’s principal place of residence or principal place of business and is licensed to act as a producer.

“Individual” means a private or natural person, as distinguished from a partnership, corporation or association.

“Insurance” means any of the lines of insurance listed in subrule 10.7(1).

“License” means the division’s authorization for a person to act as a producer for the authorized lines of insurance.

“License number” means the National Insurance Producer Registry (NIPR) national producer number (NPN) issued to all licensees whose license records exist in the state producer licensing database (SPLD). For purposes of this definition, “state producer licensing database (SPLD)” means the national database of producers maintained by the National Association of Insurance Commissioners (NAIC), its affiliates or subsidiaries.

“National Insurance Producer Registry” or *“NIPR”* means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). The NIPR’s Web site is www.NIPR.com.

“Negotiate” means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract provided that the person engaged in that act either sells insurance or obtains insurance for purchasers.

“NIPR Gateway” means the communication network developed and operated by NIPR that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of producer information regarding license applications, license renewals, appointments and terminations.

“Nonresident” means a person whose home state is not Iowa.

“Notification” means a written or electronic communication from a producer to the division.

“Person” means an individual or a business entity.

“Producer” or *“insurance producer”* means a person required to be licensed in this state to sell, solicit or negotiate insurance.

“*Producer renewal notice*” means an electronic communication issued by the division to inform a producer about license renewal.

“*Resident*” means a person whose home state is Iowa.

“*Sell*” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

“*Solicit*” or “*solicitation*” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

“*Termination*” means that an insurer has ended its agency relationship with a producer.

“*Termination for cause*” means that an insurer has ended its agency relationship with a producer for one of the reasons set forth in Iowa Code section 522B.11.

“*Uniform application*” means the National Association of Insurance Commissioners’ uniform application for resident and nonresident insurance producer licensing, as it appears on the NAIC Web site.

[ARC 7836B, IAB 6/3/09, effective 7/8/09]

191—10.3(522B) Requirement to hold a license.

10.3(1) No person may sell, solicit or negotiate insurance in Iowa until that person has been issued an Iowa producer license.

10.3(2) A person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance must be licensed as a producer.

10.3(3) A person shall not advise an Iowa resident to cancel, not renew, or otherwise change an existing insurance policy unless that person holds an Iowa producer license regarding the line of insurance for which the advice is given. This subrule shall not apply to a licensed attorney or certified public accountant who does not sell or solicit insurance.

10.3(4) The license itself does not provide the producer with any authority to represent or commit an insurer.

191—10.4(522B) Licensing of resident producers.

10.4(1) A person whose home state is Iowa and who desires to be licensed as a producer must satisfy the following requirements:

- a. Be at least 18 years of age,
- b. Have not committed any act that is grounds for denial under subrule 10.20(4).
- c. Submit a completed uniform application,
- d. Pass an examination in the line of authority sought, and
- e. Pay the appropriate producer license fee.

10.4(2) Examinations are conducted by the outside testing service on contract with the division. Applications and fees for examinations and for initial producer licensing will be submitted either to the outside testing service on contract with the division or as directed by the division. Instructions are available at the division’s Web site: www.iid.state.ia.us.

10.4(3) Reserved.

10.4(4) Examination results are valid for 90 days after the date of the test. Failure to apply for licensure within 90 days after the examination is passed shall void the examination results.

10.4(5) Amendments to producer licenses shall be done either by an outside vendor or by the division, as directed by the division. Any licensed producer desiring to become licensed in an additional line of authority shall:

a. Submit a completed uniform application form through the NIPR Gateway or as directed by the division, specifying the line(s) of authority requested to be added. Instructions are available at the division’s Web site: www.iid.state.ia.us; and

b. For each line of authority requested to be added, pass any required examination.

10.4(6) A producer who holds a personal lines authority can obtain property and casualty lines of authority upon successful completion of the commercial insurance subject examination.

10.4(7) To receive a license for excess and surplus lines, the applicant must have successfully completed the excess and surplus lines examination and also have successfully completed either: (1) the examinations for property and casualty lines of authority; or (2) the examination for personal lines of authority and the commercial insurance subject examination.

10.4(8) To receive a license for the variable products line of authority, the applicant must:

- a. Hold an active Iowa insurance license with a life insurance line of authority;
- b. Pass the Financial Industry Regulatory Authority (FINRA) examinations necessary to obtain an Iowa securities license; and
- c. File an application through the NIPR Gateway or as directed by the division to amend the license to add the variable products line of authority.

10.4(9) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive a producer license. If an applicant does not provide the additional information requested by the division within 45 days of receipt of the request, the application will expire and the license fee will not be returned.

191—10.5(522B) Licensing of nonresident producers.

10.5(1) A producer for whom Iowa is not the home state who desires to sell, solicit or negotiate insurance in Iowa must satisfy the following requirements to obtain an Iowa nonresident producer license:

- a. Be licensed and in good standing in the home state;
- b. Submit a proper request for licensure to the division through the NIPR Gateway; and
- c. Pay the appropriate fee.

10.5(2) Any licensed nonresident producer desiring to become licensed in an additional line of authority shall submit to the division using the NIPR Gateway a completed application form specifying the line(s) of authority requested to be added.

10.5(3) A license will not be issued to a nonresident producer if the producer's resident state does not issue licenses to Iowa resident producers applying for nonresident producer licenses in that state or if the producer's resident state restricts Iowa resident producers' nonresident activities in that state.

10.5(4) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive a producer license. If an applicant does not provide the additional information requested by the division within 45 days of receipt of the request, the application will expire and the license fee will not be returned.

191—10.6(522B) Issuance of license.

10.6(1) A person who meets the requirements of Iowa Code sections 522B.4 and 522B.5, or section 522B.7, and of rule 10.5(522B), unless otherwise denied licensure pursuant to Iowa Code section 522B.11 or rule 10.20(522B), shall be issued a producer license. A producer license shall remain in effect for an initial term of three years after the last day of the applicant's birth month of the year the license was issued, unless revoked or suspended. A license may be continually renewed pursuant to rule 10.8(522B) as long as the proper fees are paid and home state continuing education requirements are met. A renewal term is three years. If not renewed, a producer license automatically terminates on the last day of the month of the initial or renewal term.

10.6(2) An individual producer whose license has expired may seek reinstatement as set forth in rule 191—10.9(522B).

10.6(3) The license shall contain the producer's name, address, license number, date of issuance, date of expiration, the line(s) of authority held and any other information the division deems necessary. The license number shall be the same as the producer's National Insurance Producer Registry (NIPR) national producer number (NPN).

10.6(4) If the division issues or renews a producer license and subsequently determines that payment for the license or renewal was returned to the division by a bank without payment, or that the credit card

company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

191—10.7(522B) License lines of authority. In addition to the lines of authority listed in Iowa Code subsection 522B.6(2), the following lines of authority also are available for issuance in Iowa: crop; surety; and reciprocal (any other line of insurance issued in another state and for which Iowa grants authority to sell, solicit or negotiate in this state).

191—10.8(522B) License renewal.

10.8(1) Upon request by a producer, the division shall electronically transmit a producer renewal notice to a licensed producer at the producer's last-known electronic mail address as it appears in division records. If the division has received notification that the electronic address of record is no longer valid, no renewal notice will be transmitted.

10.8(2) A producer must apply for license renewal within 60 days prior to the expiration date of the license. Failure to apply to renew a license and pay appropriate fees prior to the expiration date of the license will result in expiration of the license.

10.8(3) A producer may submit an electronic mail address to the division as directed by the division.

10.8(4) Resident producer licenses may be renewed electronically through the NIPR Gateway at www.NIPR.com.

10.8(5) Nonresident producer licenses may be renewed only through the NIPR Gateway, or as otherwise directed by the division.

[ARC 7836B, IAB 6/3/09, effective 7/8/09]

191—10.9(522B) License reinstatement.

10.9(1) A resident producer may reinstate an expired license up to 12 months after the license expiration date by proving that during the CE term the producer met the CE requirements found in 191—Chapter 11, and by paying a reinstatement fee and license renewal fees. A resident producer who fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

10.9(2) A nonresident producer may reinstate an expired license up to 12 months after the expiration date by submitting a request through the NIPR Gateway and by paying a reinstatement fee and license renewal fee. After the 12-month period, a nonresident producer must apply for a new license.

10.9(3) A producer who has surrendered a license for a nondisciplinary reason and stated an intent to exit the insurance business may file a request to reactivate the license. The request must be received at the division within 90 days of the date the license was placed on inactive status. The request will be granted if the former producer is otherwise eligible to receive the license. If the request is not received within 90 days, the producer must apply for a new license.

191—10.10(522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

10.10(1) The term "reinstatement" as used in this rule means the reinstatement of a suspended license. The term "reissuance" as used in this rule means the issuance of a new license following either the revocation of a license or the forfeiture of a license in connection with a disciplinary matter, including but not limited to proceedings pursuant to rules 191—10.21(252J), 191—10.22(261) and 191—10.23(82GA,SF2428). This rule does not apply to the reinstatement of an expired license.

10.10(2) Any producer whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

a. All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license.

b. An application for reinstatement or reissuance shall allege facts which, if established, will be sufficient to enable the commissioner to determine that the basis of revocation, suspension or forfeiture of the applicant's license no longer exists and that it will be in the public interest for the application to be granted. The burden of proof to establish such facts shall be on the applicant.

c. A producer may request reinstatement of a suspended license prior to the end of the suspension term.

d. Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance may not be made until at least one year has elapsed from the date of the order of the suspension (notwithstanding paragraph 10.10(2) "c"), revocation, or acceptance of the forfeiture of a license.

10.10(3) All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

10.10(4) An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems desirable, which may include one or more of the types of disciplinary sanctions provided by Iowa Code section 522B.11. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapter 22.

10.10(5) A request for voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission of the request unless a contested case proceeding is pending at the time the request is submitted. If a contested case proceeding is pending at the time of the request, the forfeiture becomes effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

10.10(6) When a producer's license has been suspended for a period of time which extends beyond the producer's license expiration date, the license will terminate at the license expiration date, and the producer must request reinstatement pursuant to subrule 10.10(2). If suspension for a period of time ends prior to the producer's license expiration date, the division shall reinstate the license at the end of the suspension period. The commissioner is not prohibited from bringing an additional immediate action if the producer has engaged in misconduct during the period of suspension.

191—10.11(522B) Temporary licenses. An Iowa resident may apply for a temporary license pursuant to Iowa Code section 522B.10. The applicant should submit a written request to the division which includes the reason for the request and the length of time for which the temporary license is requested. Temporary licenses will be issued for 90 days, with extensions allowed, but in no event for longer than 180 days, pursuant to Iowa Code section 522B.10.

191—10.12(522B) Change in name, address or state of residence.

10.12(1) If a producer's name is changed, the producer must file notification with the division within 30 days of the name change. The notification must include the producer's:

- a.* Prior name;
- b.* License number; and
- c.* New name.

Notification shall be filed through the NIPR Gateway at www.NIPR.com, unless the division instructs the producer otherwise.

10.12(2) Address change. If a resident or nonresident producer's address is changed, the producer must file notification with the division within 30 days of the address change. The notification must include the producer's:

- a. Name;
- b. License number;
- c. Previous address; and
- d. New address. A producer may designate a business address instead of a resident address at the option of the producer.

Notification shall be filed through the NIPR Gateway at www.NIPR.com, unless the division instructs the producer otherwise.

10.12(3) A nonresident producer who moves from one state to another state or an Iowa resident producer who moves to another state and wishes to retain an Iowa producer license must file a change of address with the division and provide a certification from the new resident state within 30 days of the change of legal residence. No fee or license application is required. If the new resident state is actively participating in the producer database, a letter of certification is not required. A nonresident licensed producer who moves to Iowa and wishes to retain the nonresident's producer license must file a change of address with the division within 90 days of the change of legal residence.

10.12(4) Issuance of an Iowa nonresident producer license is contingent on proper licensure in the nonresident producer's home state. Termination of the producer's resident license will be deemed termination of the Iowa nonresident producer license unless the producer timely files a change of address pursuant to this rule.

10.12(5) If a producer has provided an E-mail address to the division, the division has the option to send information to the producer through the E-mail address rather than through the mail.

191—10.13(522B) Reporting of actions.

10.13(1) A producer shall report to the division any actions required to be reported by Iowa Code section 522B.16.

10.13(2) A producer shall report to the division all CSAC or CSRU actions taken under or in connection with Iowa Code chapter 261 or 252J and all court orders entered in such actions.

10.13(3) Failure to file reports required by this rule is a violation of this chapter and will subject producers to penalty pursuant to rule 191—10.20(522B).

191—10.14(522B) Commissions and referral fees.

10.14(1) An insurance company shall not pay, and a person shall not accept, any commission, service fee, brokerage or other valuable consideration unless the person performing the service held a valid license for the line of insurance for which the service was rendered at the time the service was performed.

10.14(2) A producer may assign commissions to an entity organized for the purpose of operating that producer's insurance business if all of the entity's representatives who personally sell, solicit or negotiate insurance in Iowa are individually licensed as producers under Iowa law.

10.14(3) An insurer or a producer may pay a nominal fee for referrals if the same fee is paid for each referral whether or not the referral results in an insurance transaction.

10.14(4) An insurer or a producer may not charge an additional fee for services that are customarily associated with the sale, solicitation, negotiation and servicing of an insurance policy. This prohibition does not apply to assigned risk and commercial property/casualty policies. Any fees or other charges that are assessed to an insurance consumer must be fully disclosed.

10.14(5) A person who is not engaged in any activities in Iowa that require a producer license in Iowa is not required to maintain an active producer license in order to receive override or hierarchy commissions or to receive renewal commissions earned while the producer was actively engaged in activities that required a producer license.

191—10.15(522B) Appointments.

10.15(1) Insurers are required to file appointments with the division for each producer with which the producer has an agency relationship. The determination of whether an insurer and a producer have an agency relationship will be made by the division based on the totality of the circumstances surrounding the business relationship. Appointments are not issued for business entities.

10.15(2) Insurers shall file and pay for initial appointments using the NIPR Gateway, except that insurers authorized under Iowa Code chapter 518 or 518A shall file appointments directly with the division by arrangement with the division.

10.15(3) The notice of appointment must be filed within 30 days of the date the insurer and producer execute an agency contract or the first insurance application is submitted to the insurer.

10.15(4) Appointment fees are set forth in rule 191—10.26(522B). The division or its designee will electronically transmit a billing statement to insurers authorized under Iowa Code chapter 518 or 518A, and payment is due within 45 days. The division will assess a late fee of \$100 for the failure to timely pay appointment billing statements and an additional \$500 on or after the forty-sixth day.

10.15(5) The division may adopt special appointment filing procedures to allow an insurer to file one appointment request that will appoint a producer to some or all of the affiliated insurance companies that comprise a holding company.

10.15(6) When a company loses its identity in a new company by merger, acquisition, or otherwise, the new company must contact the licensing bureau to arrange for reappointment of the producers to the remaining company.

10.15(7) Insurance companies are required to file the name, address, and electronic address of a contact person for the company, to whom the billing statements will be sent. Insurance companies are required to notify the division if there is a change of the person appointed as the contact person or if a change of the address of such contact occurs. If a company fails to notify the division of such a change, the division shall charge the insurance company a \$100 fee.

[ARC 7836B, IAB 6/3/09, effective 7/8/09]

191—10.16(522B) Appointment renewal.

10.16(1) On or about December 1 of each year, the division or its designee will deliver reminders to insurance companies that appointment renewals are imminent. Appointments shall be renewed electronically via the NIPR Gateway at www.NIPR.com.

10.16(2) On or about January 2 of each year, a list of the producers currently appointed with each insurance company and a billing statement will be provided to each insurance company via the NIPR Gateway. The billing statement may not be altered, amended or used for appointing or terminating producers.

10.16(3) Payment is due on or before March 1.

10.16(4) Failure to pay renewal appointment fees by March 15 will result in termination of a company's appointments. Appointments that are terminated due to nonpayment of renewal fees may be reinstated upon payment of the renewal fee plus a reinstatement fee of \$500.

10.16(5) Insurance companies are required to file the name, address, and electronic address of a contact person for the company, to whom the appointment renewals will be sent. Insurance companies are required to notify the division if a change of the address of such contact occurs. If a company fails to notify the division of such a change of address, the division shall charge the insurance company a \$100 fee.

[ARC 7836B, IAB 6/3/09, effective 7/8/09]

191—10.17(522B) Appointment terminations.

10.17(1) When an insurance company terminates its relationship with a producer, the company shall notify the division using the NIPR Gateway. The termination must be filed within 30 days of the date the insurer terminated its agency relationship with the producer. The company shall also notify the producer that the producer's appointment has been canceled.

10.17(2) There is no fee for the filing of an appointment termination.

10.17(3) The division may adopt special procedures for the filing of termination requests for a group of affiliated insurance companies that comprise a holding company.

10.17(4) When an insurer terminates an appointment for cause pursuant to Iowa Code section 522B.14, the notification of termination may be filed according to subrule 10.17(1). The supporting documents required by Iowa Code section 522B.14 shall be submitted to the division within ten days

of the filing of the notification. The documents shall include a certification by an officer or authorized representative of the insurer.

191—10.18(522B) Licensing of a business entity.

10.18(1) Application. A business entity may apply for an Iowa insurance license. For purposes of this rule, upon approval of an application by the division, the business entity shall be classified as a producer and shall be subject to all standards of conduct and reporting requirements applicable to producers.

10.18(2) Requirements.

a. To qualify for such a license, the business entity must:

(1) File a completed NAIC uniform business entity application through the NIPR Gateway or as directed by the division. For purposes of this subrule, “uniform business entity application” means the National Association of Insurance Commissioners’ uniform business entity application for resident and nonresident business entities, as the application appears on the NAIC Web site;

(2) Designate one officer, owner, partner, or member of the business entity, which person also is a producer licensed by the division, as the person who will have full responsibility for the conduct of all business transactions of the business entity or of producers affiliated with the business entity;

(3) For a nonresident business entity, submit an appropriate request through the NIPR Gateway; and

(4) Pay the license fee.

b. The designated responsible producer shall maintain an active Iowa producer license. If the license of the designated responsible producer terminates or lapses for any reason, the business entity must supply the division with a substitute designated responsible producer within ten days. If the business entity does not provide a substitute, the division shall terminate the license, and the entity shall submit a new application.

10.18(3) License term. A business entity license issued under this rule shall be effective for three years and one month, including the year of application, beginning on the first day of the month of the business entity’s formation date and ending with the last day of the month of the business entity’s formation date. By arrangement with the division, a business entity may choose a different month for its license term.

10.18(4) License renewal. Upon request by a business entity, the division shall electronically transmit a renewal notice to the electronic mail address of the business entity on file with the division on or before the first day of the month preceding the renewal month. The renewal fee must be received by the division or its designated vendor on or before the license expiration date. All business entities must renew their licenses through the NIPR Gateway or as otherwise directed by the division.

10.18(5) Business address. Business entities licensed under this rule must maintain a current business address with the division. If a business entity’s address is changed, notification from the designated responsible producer must be submitted to the division within 30 days of the address change, stating:

- a.* Name of the business entity;
- b.* License number;
- c.* Previous address; and
- d.* New address.

The notification may be sent by electronic mail through the NIPR Gateway at www.NIPR.com, unless the division instructs the producer otherwise.

10.18(6) Business name. A business entity licensed under this rule must keep the division informed of its business name. If a business entity changes the name under which it is operating, notification from the designated responsible producer must be submitted to the division within 30 days of the name change. The notification may be sent by electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available.

[ARC 7836B, IAB 6/3/09, effective 7/8/09]

191—10.19(522B) Use of senior-specific certifications and professional designations in the sale of life insurance and annuities.

10.19(1) Purpose. The purpose of this rule is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

10.19(2) Scope. This rule shall apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by a producer.

10.19(3) Authority.

a. This rule is promulgated under the authority of Iowa Code chapters 507B and 522B.

b. Nothing in this rule shall limit the division's authority to enforce existing provisions of law.

10.19(4) Prohibited uses of senior-specific certifications and professional designations.

a. It is an unfair and deceptive act or practice in the business of insurance within the meaning of Iowa Code chapter 507B for a producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

b. The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

(1) Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the producer using the certification or designation does not have; and

(4) Use of a certification or professional designation that was obtained from a certifying or designating organization that:

1. Is primarily engaged in the business of instruction in sales or marketing;

2. Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

3. Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

4. Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

c. There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subparagraph 10.19(4)“b”(4) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

(1) The American National Standards Institute (ANSI);

(2) The National Commission for Certifying Agencies; or

(3) Any organization that is on the U.S. Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes.”

d. In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

(1) Use of one or more words such as “senior,” “retirement,” “elder,” or like words combined with one or more words such as “certified,” “registered,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and

(2) The manner in which those words are combined.

e. Financial services regulatory agency.

(1) For purposes of this rule, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

1. Indicates seniority or standing within the organization; or
2. Specifies an individual's area of specialization within the organization.

(2) For purposes of paragraph 10.19(4)“*e*,” “financial services regulatory agency” includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

f. Effective date. This rule shall become effective January 1, 2009.

191—10.20(522B) Violations and penalties.

10.20(1) A producer who sells, solicits or negotiates insurance, directly or indirectly, in violation of this chapter shall be deemed to be in violation of Iowa Code section 522B.2 and subject to the penalties provided in Iowa Code section 522B.17.

10.20(2) A person who sells, solicits or negotiates insurance, directly or indirectly, who is not properly licensed as a producer is subject to the penalties provided in Iowa Code chapter 507A and Iowa Code section 522B.17.

10.20(3) Any company or company representative who aids and abets a producer in the above-described violation shall be deemed to be in violation of Iowa Code section 522B.2 and subject to the penalties provided in Iowa Code section 522B.17.

10.20(4) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty, in accordance with Iowa Code section 522B.17 or any combination of actions, for any action listed in Iowa Code section 522B.11 and any one or more of the following causes:

a. Submitting to the division or to the outside testing service on contract with the division a check which is returned to the division by a bank without payment, or submitting a payment to the division by credit card which the credit card company does not approve, or canceling or refusing amounts charged to a credit card by the outside testing service on contract with the division where services were received by the producer;

b. Failing to report any administrative action or criminal prosecution taken against the producer or failure to report the termination of a resident producer license;

c. Acting as a producer through persons not licensed as producers; or

d. Taking any action to circumvent the spirit of these rules and the Iowa insurance statutes or any other action that shows noncompliance with the requirements of Iowa Code chapter 522B or these rules.

10.20(5) If a producer fails to provide to the division any notification required either by Iowa Code chapter 522B or by this chapter, including but not limited to notification of a change of address, notification of change of name, or notification of administrative criminal action as required by rules 191—10.12(522B) and 191—10.13(522B), within the required time, the producer shall pay a late fee of \$100. A business entity that fails to make a notification to the division as required by rule 191—10.18(522B) within the required time shall pay a late fee of \$100.

10.20(6) In the event that the division denies a request to renew a producer license or denies an application for a producer license, the commissioner shall provide written notification to the producer or applicant of the denial or failure to renew, including the reason therefor. The producer or applicant may request a hearing within 30 days of receipt of the notice to determine the reasonableness of the division's action. The hearing shall be held within 30 days of the date of the receipt of the written demand by the applicant and shall be held pursuant to 191—Chapter 3.

10.20(7) The commissioner may suspend, revoke, or refuse to issue the license of a business entity if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the entity and the violation was neither reported to the insurance division nor was corrective action taken.

191—10.21(252J) Suspension for failure to pay child support.

10.21(1) Upon receipt of a certificate of noncompliance from the child support recovery unit (CSRU), the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current license will be suspended 30 days after the date of the notice. Notice shall be sent to the producer's last-known address by regular mail.

10.21(2) The notice shall contain the following items:

a. A statement that the commissioner intends to suspend the producer's application, request for renewal or current insurance license in 30 days.

b. A statement that the producer must contact the CSRU to request a withdrawal of the certificate of noncompliance;

c. A statement that the producer's application, request for renewal or current license will be suspended if the certificate of noncompliance is not withdrawn;

d. A statement that the producer does not have a right to a hearing before the division, but that the producer may file an application for a hearing in district court pursuant to Iowa Code section 252J.9;

e. A statement that the filing of an application with the district court will stay the proceedings of the division;

f. A copy of the certificate of noncompliance.

10.21(3) The filing of an application for hearing with the district court will stay all suspension proceedings until the division is notified by the district court of the resolution of the application.

10.21(4) If the division does not receive a withdrawal of the certificate of noncompliance from the CSRU or a notice from a clerk of court that an application for hearing has been filed, the division shall suspend the producer's application, request for renewal or current license 30 days after the notice is issued.

10.21(5) Upon receipt of a withdrawal of the certificate of noncompliance from the CSRU, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before a producer license will be renewed or reinstated after a license suspension or revocation pursuant to this subrule.

191—10.22(261) Suspension for failure to pay student loan.

10.22(1) The division shall deny the issuance or renewal of a producer license upon receipt of a certificate of noncompliance from the college student aid commission (CSAC) according to the procedures set forth in Iowa Code sections 261.126 and 261.127. In addition to the procedures contained in those sections, this rule shall apply.

10.22(2) Upon receipt of a certificate of noncompliance from the CSAC according to the procedures set forth in Iowa Code sections 261.126 and 261.127, the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current license will be suspended 60 days after the date of the notice. Notice shall be sent to the producer's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed producer may accept service personally or through authorized counsel.

10.22(3) The notice shall contain the following items:

a. A statement that the commissioner intends to suspend the producer's application, request for renewal or current insurance license in 60 days;

b. A statement that the producer must contact the CSAC to request a withdrawal of the certificate of noncompliance;

c. A statement that the producer's application, request for renewal or current producer license will be suspended if the certificate of noncompliance is not withdrawn or, if the current license is on suspension, a statement that the producer's current producer license will be revoked;

d. A statement that the producer does not have a right to a hearing before the division, but that the producer may file an application for a hearing in district court pursuant to Iowa Code section 261.127;

e. A statement that the filing of an application with the district court will stay the proceedings of the division;

f. A copy of the certificate of noncompliance.

10.22(4) The effective date of revocation or suspension of a producer license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or registrant.

10.22(5) In the event an applicant or licensed producer timely files a district court action following service of a division notice pursuant to Iowa Code section 261.127, the division's suspension proceedings will be stayed until the division is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the division to proceed, the division shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of a producer license, the division shall count the number of days before the action was filed and the number of days after the court disposed of the action.

10.22(6) If the division does not receive a withdrawal of the certificate of noncompliance from the CSAC or a notice from a clerk of court that an application for hearing has been filed, the division shall suspend the producer's application, request for renewal or current producer license 60 days after the notice is issued.

10.22(7) Upon receipt of a withdrawal of the certificate of noncompliance from the CSAC, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's insurance license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before a producer license will be renewed or reinstated after a license suspension or revocation pursuant to Iowa Code section 261.126.

10.22(8) The division shall notify the producer in writing through regular first-class mail, or such other means as the division deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a producer license, and shall similarly notify the producer when the producer license is reinstated following the division's receipt of a withdrawal of the certificate of noncompliance.

10.22(9) Notwithstanding any statutory confidentiality provision, the division may share information with the CSAC for the sole purpose of identifying producers subject to enforcement under Iowa Code chapter 261.

191—10.23(82GA,SF2428) Suspension for failure to pay state debt.

10.23(1) The commissioner shall deny the issuance or renewal of a producer license upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in 2008 Iowa Acts, Senate File 2428. In addition to the procedures set forth in 2008 Iowa Acts, Senate File 2428, this rule shall apply.

10.23(2) Upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in 2008 Iowa Acts, Senate File 2428, the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current producer license will be suspended 60 days after the date of the notice. Notice shall be sent to the producer's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed producer may accept service personally or through authorized counsel.

10.23(3) Pursuant to 2008 Iowa Acts, Senate File 2428, section 14, the notice shall contain the following items:

a. A statement that the commissioner intends to suspend the producer's application, request for renewal or current producer license in 60 days;

b. A statement that the producer must contact the centralized collection unit of the department of revenue to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance;

c. A statement that the producer's application, request for renewal or current producer license will be suspended or denied if the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue within 60 days of the issuance of notice under this rule; or, if the current producer license is on suspension, a statement that the producer's current producer license will be revoked;

d. A statement that the producer does not have a right to a hearing before the commissioner, but that the producer may file an application for a hearing in district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15;

e. A statement that the filing of an application with the district court will stay the proceedings of the commissioner;

f. A copy of the certificate of noncompliance.

10.23(4) Producers shall keep the commissioner informed of all court actions and all actions taken by the centralized collection unit of the department of revenue under or in connection with 2008 Iowa Acts, Senate File 2428; and producers shall provide to the commissioner, within seven days of filing or issuance, copies of all applications filed with the district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15, of all court orders entered in such actions, and of all withdrawals of certificates of noncompliance by the centralized collection unit of the department of revenue.

10.23(5) The effective date of revocation or suspension of a producer license, as specified in the notice required by 2008 Iowa Acts, Senate File 2428, section 14, and subrule 10.23(2), shall be 60 days following service of the notice upon the applicant or producer.

10.23(6) In the event an applicant or licensed producer timely files a district court action following service of a notice by the commissioner pursuant to 2008 Iowa Acts, Senate File 2428, section 15, the commissioner's suspension proceedings will be stayed until the commissioner is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the commissioner to proceed, the commissioner shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of a producer license, the commissioner shall count the number of days before the action was filed and the number of days after the court disposed of the action.

10.23(7) If the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue or a notice from a clerk of court that an application for hearing has been filed, the commissioner shall suspend the producer's application, request for renewal or current producer license 60 days after the notice is issued.

10.23(8) Upon receipt of a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue, suspension proceedings shall halt, and the named producer shall be notified that the proceedings have been halted. If the producer's license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with this chapter. All fees required for license renewal or license reinstatement must be paid by the producer, and all continuing education requirements must be met before a producer license will be renewed or reinstated after a license suspension or revocation pursuant to 2008 Iowa Acts, Senate File 2428.

10.23(9) The commissioner shall notify the producer in writing through regular first-class mail, or such other means as the commissioner deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a producer license, and shall similarly notify the producer when the producer license is reinstated following the commissioner's receipt of a withdrawal of the certificate of noncompliance.

10.23(10) Notwithstanding any statutory confidentiality provision, the commissioner may share information with the centralized collection unit of the department of revenue for the sole purpose of identifying producers subject to enforcement under 2008 Iowa Acts, Senate File 2428.

191—10.24(522B) Administration of examinations.

10.24(1) The division will enter into a contractual relationship with an outside testing service, in compliance with Iowa law, to provide the licensing examinations for all lines of authority which require an examination.

10.24(2) The outside testing service will administer all examinations for license applicants.

10.24(3) Any contract to implement subrule 10.24(1) shall require the outside testing service to:

- a. Update, on a continual basis, the licensing examinations;
- b. Ensure that the examinations are job-related;
- c. Adequately inform the applicants of the procedures and requirements for taking the licensing examinations;
- d. Prepare and administer examinations for all lines listed in Iowa Code subsection 522B.6(2) and rule 191—10.7(522B), except variable contracts; and
- e. Conform to division guidelines and Iowa law, and report to the division on at least a quarterly basis.

191—10.25(522B) Forms. An original of each form necessary for the producer's licensure, appointment and termination may be downloaded from the NAIC Web site, and the division's Web site (www.iid.state.ia.us) will provide a link to that site. Exact, readable, high-quality copies may be made therefrom. A self-addressed, stamped envelope must be submitted with each request.

191—10.26(522B) Fees.

10.26(1) Fees may be paid by check or credit card.

10.26(2) The fee for an examination shall be set by the outside testing service under contract with the division and approved by the division.

10.26(3) The fee for issuance or renewal of a producer license is \$50 for three years.

10.26(4) The fee for issuance or renewal of a business entity license is \$50 for three years.

10.26(5) The fee for reinstatement of a producer license is a total of the renewal fee plus \$100.

10.26(6) The fee for an appointment or the renewal of an appointment is \$5 for each producer appointed to a domestic company. The fee for appointment or renewal of each producer appointed to a foreign company is the fee charged by the state of domicile.

10.26(7) The division may charge a reasonable fee for the compilation and production of producer licensing records.

These rules are intended to implement Iowa Code chapters 252J, 261, and 522B and 2008 Iowa Acts, Senate File 2428.

191—10.27 to 10.50 Reserved.

DIVISION II
LICENSING OF CAR RENTAL COMPANIES AND EMPLOYEES
(Effective March 15, 2000)

191—10.51(522A) Purpose. The purpose of these rules is to govern the qualifications and procedures for the licensing of car rental companies and counter employees and to set out the requirements, procedures and fees relating to the qualification and licensure of car rental companies and counter employees.

191—10.52(522A) Definitions.

"Counter employee" means a person at least 18 years of age employed by a rental company that offers the products described in this chapter.

"Counter Employee Application" means the form used by an individual to apply for a counter employee license.

"Division" means the Iowa insurance division.

"Filed" means received at the Iowa insurance division.

“Limited Licensee Application” means the form used by a rental company to apply for a limited license.

“Rental company” means any person or entity in the business of primarily providing vehicles intended for the private transportation of passengers to the public under a rental agreement for a period not to exceed 90 days.

“Vehicle” means a motor vehicle under Iowa Code section 321.1 used for the private transportation of passengers, including passenger vans, minivans and sport utility vehicles or used for the transportation of cargo with a gross vehicle weight of less than 26,001 pounds and not requiring the operator to possess a commercial driver’s license, including cargo vans, pickup trucks and trucks.

191—10.53(522A) Requirement to hold a license.

10.53(1) A rental company that desires to offer or sell insurance in connection with the rental of a vehicle must file an application with the division and receive a license as a limited licensee.

10.53(2) A counter employee who desires to offer or sell insurance products must file an application with the division and receive a license as a counter employee.

191—10.54(522A) Limited licensee application process.

10.54(1) To obtain a limited licensee license, a person or entity must file a complete limited licensee application with the division and pay a fee of \$50 for a three-year license.

10.54(2) If the application is approved, the division will issue a limited licensee license.

191—10.55(522A) Counter employee licenses.

10.55(1) A person may not obtain a counter employee license unless that person is employed by a limited licensee.

10.55(2) To obtain a counter employee license, a person must file with the division a completed counter employee license application.

10.55(3) All persons who desire to obtain a counter employee license must first successfully complete an examination.

10.55(4) Examinations shall be administered by the limited licensee that employs the counter employee.

10.55(5) If the application is approved, the division will issue a three-year counter employee license. Applications are deemed approved if not disapproved by the division within 30 days of receipt at the division.

10.55(6) The counter employee license will automatically terminate when the counter employee ceases employment with a limited licensee.

191—10.56(522A) Duties of limited licensees.

10.56(1) A limited licensee is responsible for the training, examination and payment of license fees for all persons who desire to obtain a counter employee license with the limited licensee.

10.56(2) A limited licensee must obtain and administer an examination for all counter employee candidates. The content of the examination and the manner of its administration must be approved by the division.

10.56(3) The limited licensee must develop a system for examination content security.

10.56(4) The limited licensee must administer the counter employee examination under controlled conditions, approved by the division, that ensure that each candidate completes the examination without outside assistance or interference.

10.56(5) The limited licensee must notify the division of the termination of employment of any of its licensed counter employees. The limited licensee must file reports of terminations semiannually on July 1 and on January 1.

191—10.57(522A) License renewal.

10.57(1) All limited licensee and counter employee licenses will be issued with an expiration date of December 31 and must be renewed triennially.

10.57(2) A single renewal form for use in renewing the limited licensee's license and the licenses of all of its counter employees will be mailed to the limited licensee at its last-known address as shown on division records.

10.57(3) The limited licensee must complete and return the renewal form to the division on or before December 31 of the renewal year or all licenses listed on the renewal form will expire.

10.57(4) The fee for renewal of a limited licensee license is \$50 and the fee to renew each individual counter employee license is \$50.

191—10.58(522A) Limitation on fees. A limited licensee will not be required to pay more than \$1,000 in license or renewal fees in any one calendar year.

191—10.59(522A) Change in name or address.

10.59(1) Limited licensees must file written notification with the division of a change in name or address within 30 days of the change. This requirement applies to any change in any locations at which the limited licensee is doing business.

10.59(2) Limited licensees must file written notification with the division of a change in name or address of licensed counter employees. If the change of name is by a court order, a copy of the order must be included with the request. The limited licensee must file reports of name and address changes semiannually on July 1 and on January 1.

191—10.60(522A) Violations and penalties.

10.60(1) A rental company or counter employee that sells insurance in violation of this chapter shall be deemed to be in violation of Iowa Code Supplement chapter 522A and subject to the penalties provided in Iowa Code Supplement section 522A.3.

10.60(2) A limited licensee or licensed counter employee who commits an unfair or deceptive trade practice in violation of Iowa Code chapter 507B, or in violation of administrative rules adopted which implement that chapter, is subject to the penalties provided for in Iowa Code chapter 507B.

Rules 191—10.51(522A) to 191—10.60(522A) are intended to implement Iowa Code Supplement chapter 522A.

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◇ Two or more ARCs

CHAPTER 13
CONSENT FOR PROHIBITED PERSONS
TO ENGAGE IN THE BUSINESS OF INSURANCE

191—13.1(505,522B) Purpose and authority. The purpose of these rules is to implement the provisions of 18 U.S.C. Section 1033 and Iowa Code section 522B.16B. The Iowa insurance commissioner has jurisdiction under 18 U.S.C. Section 1033 to grant requests for consent to engage in the business of insurance. Insurance companies, producers, and individuals shall comply with these rules beginning January 1, 2010.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.2(505,522B) Definitions. For the purpose of this chapter, the following definitions shall apply:

“*Act*” means the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, H.R. 3355; 18 U.S.C. Sections 1033 and 1034.

“*Applicant*” means any person subject to the provisions of 18 U.S.C. Sections 1033 and 1034 who files an application for consent to engage in the business of insurance.

“*Breach of trust*” means any criminal act or an element of a criminal act by an applicant, including but not limited to an act that constitutes or involves misuse, misapplication or misappropriation of the following:

1. Anything of value held as a fiduciary, where “fiduciary” includes, but is not limited to, a trustee, administrator, executor, conservator, receiver, guardian, agent, employee, partner, officer, director or public servant; or

2. Anything of value of any public, private or charitable organization.

“*Business of insurance*” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activity of persons who are or who act as officers, directors, agents, or employees of insurers, producers or any other persons authorized to act on behalf of such persons.

“*Commissioner*” means the Iowa insurance commissioner or the commissioner’s designee.

“*Consent*” means the written consent issued by the commissioner for a prohibited person to engage in the business of insurance in Iowa.

“*Dishonesty*” means any criminal act which includes, but is not limited to, any offense constituting or involving perjury, bribery, forgery, counterfeiting, false or misleading oral or written statements, deception, fraud, schemes or artifices to deceive or defraud, material misrepresentations or the failure to disclose material facts.

“*Division*” means the Iowa insurance division.

“*Felony*” means the following:

1. A federal crime for which the maximum authorized punishment exceeds one year of imprisonment; or

2. A crime in any state or country that is identified as a felony in that state or country or, if not identified as a felony in that other state or country, any offense for which the maximum authorized punishment exceeds one year of incarceration.

“*Insurer*” means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, producer, or employee of that business.

“*License*” means any license, registration, certificate of authority or other permit or approval issued or granted by the commissioner.

“*Prohibited person*” means any person who is a resident of Iowa and who has been convicted of any felony crime involving dishonesty or breach of trust in a state or federal jurisdiction or who has been convicted of any violation of the Act.

“*Request for consent*” means a completed application, submitted by a prohibited person, that requests the commissioner’s consent to allow that prohibited person to engage in or transact, or to continue to engage in or transact, the business of insurance in Iowa.

“State,” for the purposes of this chapter, includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands.
[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.3(505,522B) Requirement for prohibited persons to obtain consent.

13.3(1) A prohibited person shall not engage in or transact the business of insurance in the state of Iowa without the consent of the commissioner of insurance of the person’s resident state.

13.3(2) A prohibited person who is a resident of Iowa must receive a consent from the commissioner before the division will consider any application or request for a license, certification, certificate of authority, or other permit or approval issued or granted by the division related to engaging in or transacting the business of insurance in Iowa.

13.3(3) A prohibited person engaging in or transacting the business of insurance in Iowa without the consent of the insurance commissioner of the person’s resident state is in violation of these rules, is subject to the penalties of this chapter, and risks federal criminal and civil sanctions and penalties.
[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.4(505,522B) Applications for consent. The prohibited person must file with the division an application for consent as set forth in this rule.

13.4(1) Except as provided in subrule 13.4(2), a prohibited person who is, or seeks to be, employed in any capacity in the business of insurance in Iowa shall complete and file an application for consent using the “Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034.” The form is available on the division’s Web site at www.iid.state.ia.us or is available by request from the division.

13.4(2) The commissioner may at any time request additional information from an applicant to support a pending application for consent. Failure to provide such information is grounds for denial of the application.

13.4(3) An application must include:

a. Two 2” × 2” recent passport-type photographs attached to the upper right-hand corner of the first page of the application for consent.

b. A certified copy of the applicant’s criminal history record both from the applicant’s state of residence and from the state in which the felony was committed if different from the state of residence. A Record Check Request form may be obtained from the Iowa division of criminal investigation at: www.state.ia.us/government/dps/dci/crimhist.htm.

c. A certified copy of court documents that demonstrate completion and performance of all conditions imposed by the court.

d. An affidavit from the immediate supervisor or potential immediate supervisor for the entity that employs the applicant or that seeks to employ the applicant stating in detail the duties and responsibilities which the applicant will perform and for which the applicant seeks consent.

e. Any other relevant documents or information that the prohibited person would like to have considered.

13.4(4) Upon the occurrence of any event that would change any answer on the application, an amendment must be promptly filed. Failure to file an amendment may result in denial of the request for consent or the immediate suspension or revocation of a previously granted consent.
[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.5(505,522B) Consideration of applications for consent.

13.5(1) The commissioner shall have the sole discretion to grant or deny an application for consent to engage in or transact the business of insurance.

13.5(2) Each decision of whether or not to grant consent to engage in or transact the business of insurance to a prohibited person will be handled on a case-by-case basis. Factors to be considered include, but are not limited to, the following:

a. The nature and severity of the crime;

- b. The length of time since the conviction;
- c. The injury or loss caused by the prohibited person;
- d. Whether the conviction is related to the business of insurance;
- e. Whether the prohibited person received a pardon from the authority that convicted the person and whether the pardon was granted due to the innocence of the person;
- f. Whether the prohibited person completed parole or probation;
- g. Whether a breach of trust or dishonesty was involved;
- h. The nature and strength of character reference letters;
- i. The person's business and personal records before and after the conviction;
- j. Whether and to what extent the person has made material false statements in an application, renewal or other documents filed with the commissioner;
- k. Whether and to what extent the person has made material false statements in applications or other documents filed with other agencies of this state or of other states or with federal agencies;
- l. Whether the prohibited person's conviction was expunged;
- m. Whether or not the person received the conviction in a foreign country; and
- n. Any additional relevant factors.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.6(505,522B) Review of application by the division.

13.6(1) A completed application shall be reviewed by the commissioner, and the following shall be considered:

- a. The information submitted by the applicant;
- b. The factors set forth in subrule 13.5(2); and
- c. Any mitigating or aggravating circumstances.

13.6(2) At the commissioner's discretion, the commissioner may convene a hearing to receive evidence and testimony about the application.

13.6(3) If the commissioner determines that the applicant does not seem to constitute a significant threat to the public, the commissioner shall issue the consent and specify its scope.

13.6(4) If the commissioner determines that the applicant does seem to constitute a significant threat to the public, the commissioner shall deny the application. Notice of the denial shall be sent to the applicant via certified mail to the address on record with the division, return receipt requested. The prohibited person shall have 30 days to request a hearing with the commissioner.

13.6(5) The application and materials supplied with the application or at the request of the division and any information obtained by the division during the course of its review shall be considered information submitted to the insurance division or obtained by the insurance division in the course of an investigation for purposes of Iowa Code section 505.8(8), and the commissioner shall keep such information confidential. A consent issued by the commissioner shall be deemed a public record for purposes of Iowa Code chapter 22; however, Iowa Code section 505.8(9) also shall apply.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.7(505,522B) Consent effective for specified positions and responsibilities only. A consent issued by the commissioner shall be effective only so long as the prohibited person remains in the same or similar job position with the same or similar responsibilities to which the person attested in the initial request for consent. A material change in job responsibilities requires the prohibited person to file an amended request for consent.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.8(505,522B) Change in circumstances.

13.8(1) *Failure to disclose.* In the event that the division determines that the prohibited person receiving the consent made materially false or misleading statements, or failed to disclose material information in the application for consent, the consent shall be suspended or revoked. The prohibited person shall have 30 days to request a hearing with the commissioner.

13.8(2) *New felony.*

a. A prohibited person who previously received consent from the commissioner to participate in the business of insurance shall immediately notify the division if that person is subsequently convicted of an offense under the Act, or of any felony offense involving dishonesty or breach of trust.

b. The entry of a new conviction shall automatically terminate the prior consent.

c. When the division becomes aware of the new conviction, it will inform the prohibited person in writing, via certified mail to the address on record with the division, return receipt requested, that the consent previously issued has been revoked.

d. The prohibited person may seek a new consent from the commissioner pursuant to the Act and to this chapter after reporting the new conviction.

13.8(3) *Violation of terms of consent.* If the commissioner determines that a prohibited person has violated the terms of a consent, the commissioner shall immediately terminate the consent. The prohibited person shall have 30 days to request a hearing with the commissioner.

13.8(4) *Suspension of insurance producer license.* The commissioner may summarily suspend the insurance producer license of a prohibited person for any of the actions described in subrule 13.8(1), 13.8(2) or 13.8(3) if the person has been issued a license by the division. A hearing shall be scheduled in accordance with Iowa Code chapter 17A to determine whether the person's license should be revoked. [ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.9(505,522B) Burden of proof. The burden of proof of persuasion and of the production of evidence at a hearing regarding a request for consent is on the prohibited person. The person shall have to demonstrate by clear and convincing evidence that the person is not a threat to the public interest and public safety.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

191—13.10(505,522B) Violations and penalties. A prohibited person who engages in the business of insurance without the consent of the commissioner or otherwise in violation of this chapter shall be deemed to be in violation of Iowa Code section 522B.2 and shall be subject to the penalties provided in Iowa Code section 522B.17.

[ARC 8309B, IAB 11/18/09, effective 12/23/09]

These rules are intended to implement Iowa Code chapter 505, Iowa Code section 522B.16B and 18 U.S.C. Section 1033.

[Filed ARC 8309B (Notice ARC 8144B, IAB 9/9/09), IAB 11/18/09, effective 12/23/09]

CHAPTER 58
THIRD-PARTY ADMINISTRATORS

191—58.1(510) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code chapter 510 relating to the regulation of third-party administrators.
[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.2(510) Definitions. The terms defined in Iowa Code section 510.11 shall have the same meaning for the purposes of this chapter. In addition, for purposes of this chapter:

“Affiliate” or *“affiliates”* means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person. For purposes of this definition, “control” (including the terms “controls” or “controlled by”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Iowa Code section 505.23 and Iowa Code chapter 521A that control does not exist in fact. The commissioner may determine, after furnishing notice and opportunity to be heard to all persons in interest and after making specific findings of fact to support the determination, that control exists in fact notwithstanding the absence of a presumption to that effect.

“Commissioner” means the commissioner of insurance for the state of Iowa.

“Division” means the Iowa insurance division.

“Home state” means the United States state or territory or the District of Columbia designated by a third-party administrator as its principal regulator, which shall be either its place of incorporation or its principal place of business within the United States. A third-party administrator may designate as its home state any United States jurisdiction in which it does business and which has adopted a law governing third-party administrators substantially similar to Iowa Code chapter 510 and this chapter.

“Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

“Insurer” means a person engaged in the business of insurance who is regulated under Iowa Code chapter 508, 512B, 514, 514B, 515, or 520.

“Nonresident third-party administrator” means a person who is applying for licensure in Iowa, who is licensed in any state other than Iowa, and whose home state is not Iowa.

“Person” means any individual, aggregation of individuals, trust, association, partnership, or corporation or an affiliate of any of these.

“Stop-loss” or *“stop-loss insurance”* means insurance protecting an employer or other person responsible for an otherwise self-insured health or life benefit plan against higher than expected obligations under the plan.

“Underwrites” or *“underwriting”* or *“underwritten”* means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.3(505,510) Registration required. A third-party administrator shall not operate as a third-party administrator in Iowa without an approved certificate of registration from the division. A third-party administrator that has a home state other than Iowa must apply for and obtain a nonresident third-party administrator certificate of registration from the division before operating as a third-party administrator in Iowa.

58.3(1) Exceptions.

a. The following persons doing the following corresponding actions shall not be required to have approved certificates of registration from the division if these are the only actions by the persons that would otherwise cause the persons to be considered third-party administrators:

(1) An employer administering its employee benefit plan or the plan of an affiliated employer under common management and control;

(2) A trust exempt from taxation under Section 507(a) of the Internal Revenue Code and its trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code; or

(3) A person licensed as a managing general agent in this state when acting within the scope of activities conveyed under such a license.

b. An insurer that underwrites, collects charges, collateral or premiums from, or adjusts or settles claims for other than its policyholders, subscribers and certificate holders is not required to be licensed as a third-party administrator and shall be exempt from rule 191—58.3(505,510), except that the insurer shall comply with paragraphs 58.3(1) "c," "e" and "f" and rules 191—58.6(505,510) and 191—58.7(505,510), if applicable.

c. A person shall not be required to have an approved certificate of registration from the division if that person is affiliated with a licensed insurer and that person only acts as a third-party administrator for the direct and assumed insurance business of the affiliated insurer, provided that the insurer shall provide all of the third-party administrator's books and records to the insurance commissioner upon request.

d. A person shall not be required to have an approved certificate of registration from the division if that person only acts as a third-party administrator for a group plan based in another state that has fewer than 100 insureds under the plan residing in Iowa.

e. A person who is not required to be registered as a third-party administrator under Iowa Code chapter 510 or this chapter and who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, only in connection with life, annuity or health coverage provided by a self-funded plan other than a governmental or church plan, shall file a statement with the commissioner triennially, verifying the person's status as described herein. An example of such a statement may be found on the division's Web site, www.iid.state.ia.us.

f. An administrator operating solely as a single-employer trust or Taft-Hartley labor union trust as defined under ERISA shall be required to file a statement triennially, verifying the administrator's status as described herein. An example of such a statement may be found on the division's Web site, www.iid.state.ia.us.

58.3(2) Application.

a. All third-party administrators wishing to do business in Iowa shall electronically file a completed application and any required attachments in the form prescribed by the division. The application shall be accompanied by a filing fee as stated in rule 191—58.18(510).

b. Application for resident third-party administrator certificate of registration.

(1) All applications shall include evidence of the existence of a surety bond issued by an insurance company licensed to do business in the state of Iowa. The bond must be in an amount equivalent to 10 percent of the third-party administrator's average daily client account balance during the preceding calendar year. In no case shall the bond be less than \$50,000 or more than \$1,000,000. The surety bond shall be in the form prescribed by the commissioner. The bond shall be payable to the Iowa Insurance Division to ensure the financial protection of the third-party administrator's customers, subject to the dollar limitation of the surety bond.

(2) An application by a third-party administrator that is a corporation, association or benefit society shall be accompanied by a certified copy of the articles of incorporation or association or a certification of good standing from the Iowa secretary of state.

c. Application for nonresident third-party administrator certificate of registration.

(1) A third-party administrator whose home state is not Iowa shall file with the division, in a manner acceptable to the division, a completed application and a certification from the home state that verifies that the applicant is in good standing in the home state.

(2) In lieu of requiring a third-party administrator to file a certification, the division may verify the nonresident third-party administrator's home state status through an electronic database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(3) A third-party administrator shall not be eligible for a nonresident third-party administrator certificate of registration under paragraph 58.3(2) "c" if the third-party administrator does not hold a certificate of registration as a resident in a home state that has adopted a law governing third-party administrators substantially similar to Iowa Code chapter 510 and this chapter. A third-party administrator may designate a state other than the resident state as its home state. If a third-party administrator is not eligible under paragraph 58.3(2) "c," it must meet the application requirements for a resident third-party administrator.

d. The division may refuse to issue a certificate of registration to an applicant as provided in Iowa Code section 510.21, or may refuse to issue a certificate of registration if the division determines that any of the grounds set forth in rule 191—58.16(510) exist with respect to the third-party administrator.

e. If an application is approved, the division will electronically deliver to the third-party administrator a certificate of registration.

58.3(3) Validity. A certificate of registration issued under Iowa Code chapter 510 and this rule shall remain valid, unless surrendered by the third-party administrator, or suspended, revoked, or not renewed by the commissioner, for as long as the third-party administrator continues to renew the certificate of registration timely, continues in business in this state, and remains in compliance with Iowa Code chapter 510 and this chapter.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.4(510) Third-party administrator duties.

58.4(1) A third-party administrator registered or applying for a certificate of registration or renewal under Iowa Code section 510.21 and this chapter shall:

a. Make available for inspection on request by the commissioner copies of all contracts with insurers or other persons utilizing the services of the third-party administrator.

b. As often as reasonably required by the commissioner, produce its accounts, records and files for examination and make its officers available to give information with respect to its affairs.

c. Immediately notify the commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a certificate of registration in this state.

d. Notify the commissioner in writing of any change in the information required to be filed under these rules including, but not limited to, a change of address or name, not later than 30 days after the change.

58.4(2) The commissioner may terminate a third-party administrator's certificate of registration, following notice and an opportunity for a hearing, for failure to comply with this rule.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.5(510) Renewal procedure. A third-party administrator that wants to maintain its certificate of registration in Iowa shall file a completed request for renewal no later than 60 days before the expiration date on the certificate of registration.

58.5(1) The division shall provide notice to the third-party administrator of the upcoming renewal date.

58.5(2) The renewal form shall be filed in a manner as prescribed by the division. The renewal form shall be accompanied by the fee specified in rule 191—58.18(510).

58.5(3) Renewal requests filed after the 60-day period specified must include the late fee specified in rule 191—58.18(510).

58.5(4) A third-party administrator that allows the certificate of registration to lapse and does not renew within one year from the expiration date must apply for a new certificate of registration.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.6(505,510) Responsibilities of the insurer.

58.6(1) If an insurer utilizes the services of a third-party administrator, the insurer shall be responsible for determining the benefits, premium rates, underwriting criteria, and claims payment procedures applicable to the coverage.

58.6(2) An insurer must supervise its contracted third-party administrators to ensure that its programs are administered in a competent and appropriate manner.

58.6(3) In cases where a third-party administrator administers benefits for more than 100 certificate holders, subscribers, claimants or policyholders on behalf of an insurer, the insurer shall, at least annually, conduct a reasonable review of the operations of the third-party administrator. If a third-party administrator has an independent party conduct a review of the third-party administrator's operations and has provided that review to the insurer, and the insurer has determined that the review was reasonable for purposes of this subrule, the review may, at the discretion of the division, meet the requirement of this subrule.

58.6(4) The requirements of rule 191—58.6(505,510) also apply to any insurer that contracts with a person exempt from licensure, pursuant to the exceptions set forth in subrule 58.3(1), to act as a third-party administrator.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.7(505,510) Written agreement.

58.7(1) The written agreement required by Iowa Code section 510.12 shall include a statement of duties that the third-party administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance for which the third-party administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting, claims handling and other standards pertaining to the business underwritten by the insurer. The rules pertaining to these matters shall be provided, in writing, by the insurer to the third-party administrator, pursuant to Iowa Code section 510.12 and rule 191—58.7(505,510).

58.7(2) The insurer or third-party administrator may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may suspend the underwriting authority of the third-party administrator during the pendency of any dispute regarding the cause for termination of the written agreement. The insurer shall fulfill any lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the insurer and the third-party administrator.

58.7(3) The requirements of this rule shall also apply to any insurer that contracts with a person exempt from licensure, pursuant to the exceptions set forth in subrule 58.3(1), to act as a third-party administrator, unless that person and the insurer are the same.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.8(510) Compensation to the third-party administrator. A third-party administrator and an insurer shall not enter into an agreement or understanding that makes the amount of the third-party administrator's commissions, fees, or charges contingent upon savings effected in the adjustment, settlement and payment of losses covered by the insurer's obligations. Third-party administrators are not prohibited from receiving performance-based compensation for providing to the insurer cost control services, including hospital auditing or other auditing services, subrogation services, contractual discounting services, or claim negotiation with providers.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.9(510) Disclosure of charges and fees. The third-party administrator shall disclose to the insurer all charges, fees and commissions received from all services in connection with the provision of administrative services for the insurer, including any fees or commissions paid by insurers providing reinsurance. Additional charges may not be made for services to the extent the insurer has paid for those services.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.10(510) Delivery of materials to covered individuals. Any policies, certificates, booklets, termination notices or other written communications delivered by the insurer to the third-party administrator for delivery to insured parties or covered individuals shall be delivered by the third-party administrator promptly after receipt of delivery instructions from the insurer.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.11(510) Annual report and fee.

58.11(1) Each registered third-party administrator shall file by July 1 an annual report in a form and manner as prescribed by the commissioner. The report shall:

- a. Be verified by at least two officers of the third-party administrator;
- b. Include audited financial statements prepared by an independent certified public accountant using generally accepted accounting principles;
- c. Be prepared on a consolidated basis; and
- d. Include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

- (1) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;
- (2) Amounts for each entity shall be stated separately; and
- (3) Explanations of consolidating and eliminating entries shall be included.

58.11(2) A third-party administrator that makes a late filing shall pay a late fee as stated in rule 191—58.18(510).

58.11(3) Extensions of the July 1 filing date may be granted by the commissioner for 30-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.12(510) Change of information.

58.12(1) A third-party administrator shall notify the commissioner within 30 days of any change in the information required to be filed under these rules including, but not limited to, a change of original application content. Reports of changes shall be filed electronically at tparegistration@iid.iowa.gov. Failure to timely file changes is grounds for suspension of a certificate of registration and imposition of a \$100 civil penalty.

58.12(2) A third-party administrator may not do business under any name other than the name on the original application unless the third-party administrator notifies the commissioner prior to using the assumed name. The notice shall include a detailed explanation of the manner in which the name will be used.

58.12(3) A third-party administrator who ceases doing business in Iowa may either allow its certificate of registration to expire or file a request to withdraw its certificate of registration. A request for withdrawal must include information demonstrating that the third-party administrator will no longer be acting in Iowa as a third-party administrator.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.13(510) Inquiry by commissioner. A third-party administrator shall promptly respond in writing to inquiries from the commissioner. A third-party administrator's actions are deemed untimely under this rule if the third-party administrator fails to respond to an inquiry from the commissioner within 30 days of the receipt of the inquiry, unless good cause exists for delay and the commissioner has given the third-party administrator a time extension in writing.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.14(510) Complaints. A third-party administrator shall keep all complaints on file for a period of five years. Complaint information shall be made available to the division by the third-party administrator at any time upon the commissioner's request.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.15(510) Periodic examination. The commissioner reserves the right to examine a third-party administrator or require the most recent audited financial statements from the third-party administrator and such other interim evidence as the commissioner deems appropriate.

58.15(1) Reasonable costs of the examination or audited financial statements shall be paid by the third-party administrator.

58.15(2) Examination shall include, but not be limited to: financial condition, premium collection, claims processing, and marketing practices.

58.15(3) If one or more of the following factors are present, the commissioner may require and determine an amount of additional security:

- a. Insufficient liquid assets or retained earnings;
- b. A deteriorating financial condition, as evidenced through an examination by the commissioner or any other insurance commissioner;
- c. Any other relevant considerations.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.16(510) Grounds for denial, nonrenewal, suspension or revocation of certificate of registration.

58.16(1) The commissioner may, at the commissioner's discretion and without advance notice or hearing, immediately suspend the certificate of registration of a third-party administrator if the commissioner finds that one or more of the following circumstances exist:

- a. The third-party administrator is insolvent or impaired;
- b. A proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the third-party administrator has been commenced in any state; or
- c. The financial condition or business practices of the third-party administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state.

58.16(2) The commissioner shall deny, suspend, revoke, or not renew a third-party administrator's certificate of registration if the commissioner finds that the third-party administrator:

- a. Is in unsound financial condition;
- b. Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or
- c. Has failed to pay any judgment rendered against it in this state within 60 days after the judgment has become final.

58.16(3) The commissioner may deny, suspend, revoke, or not renew a third-party administrator's certificate of registration if the commissioner finds that the third-party administrator:

- a. Has violated or failed to comply with any lawful rule or order of the commissioner or any provision of the insurance laws of this state;
- b. Has a financial condition that has deteriorated to the degree that it may adversely affect the third-party administrator's ability to operate as a third-party administrator;
- c. Has filed an application or any necessary forms with the division that contain fraudulent information or omissions;
- d. Has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any moneys that belong to a person otherwise entitled to the moneys and that have been entrusted to the third-party administrator in its fiduciary capacities;
- e. Has provided insufficient explanation, as determined by the commissioner, of the circumstances surrounding evidence that an owner, principal, officer, partner, manager, director, stockholder, trustee, employee of the third-party administrator or the third-party administrator itself:

(1) Has had an insurance license or an application for an insurance license in any state denied, suspended, revoked, or not renewed;

(2) Has been the subject of an investigation, fine, penalty, order, withdrawal or informal settlement with any state insurance department;

(3) Has been the subject of a criminal investigation, summons, arrest, indictment or questioning;

(4) Has been charged, tried, convicted of, or pled guilty or no contest to any felony or misdemeanor;

f. Has been found by the commissioner not to be competent, trustworthy, financially responsible or of good personal and business reputation;

g. Has refused to be examined or to produce its accounts, records and files for examination, or that any of the following individuals responsible for the conduct of the affairs of the third-party administrator has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination, when required by the commissioner: members of the board of directors, board of trustees, executive committee or other governing board or committee; the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company; any shareholder or member holding directly or indirectly 10 percent or more of the voting stock, voting securities or voting interest of the third-party administrator; or any other person who exercises control or influence over the affairs of the third-party administrator;

h. Has, without just cause, refused to pay proper claims or perform services arising under its contracts, caused covered individuals to accept less than the amount due them, or caused covered individuals to employ attorneys or bring suit against the third-party administrator to secure full payment or settlement of such claims;

i. At any time fails to meet any qualification for which issuance of the certificate of registration could have been refused had the failure then existed and been known to the commissioner;

j. Has, or any of the following individuals responsible for the conduct of the affairs of the third-party administrator has, been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld: members of the board of directors, board of trustees, executive committee or other governing board or committee; the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company; any shareholder or member holding directly or indirectly 10 percent or more of the voting stock, voting securities or voting interest of the third-party administrator; or any other person who exercises control or influence over the affairs of the third-party administrator;

k. Is under suspension or revocation in another state;

l. Has failed to promptly respond to one or more inquiries of the commissioner; or

m. Has failed to timely file its annual report.

58.16(4) If the commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of registration issued under this chapter, the commissioner may, in addition to or in lieu of suspension or revocation, impose a monetary penalty that shall not exceed \$1,000 for each act or violation of this chapter, up to an aggregate of \$10,000, unless the person knew or reasonably should have known that the person was in violation of this chapter, in which case the penalty shall not exceed \$5,000 for each act or violation, up to an aggregate of \$50,000 in any one six-month period.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.17(510) Confidential information.

58.17(1) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to Iowa Code section 510.14.

58.17(2) In order to assist in the performance of the commissioner's duties, the commissioner:

a. May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Iowa Code section 510.14, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information;

b. May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document,

material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

c. May enter into agreements governing the sharing and use of information consistent with this subrule.

58.17(3) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under rule 191—58.17(510) or as a result of sharing as authorized in subrule 58.17(2).

58.17(4) Nothing in this rule shall prohibit the commissioner from releasing final, adjudicated actions, including for-cause terminations that are open to public inspection pursuant to Iowa Code chapter 22 or Iowa Code section 505.8, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

58.17(5) In the event the insurer and the third-party administrator cancel their agreement, the third-party administrator may, by written agreement with the insurer, transfer all records to a new third-party administrator rather than retain the records for the five years required under Iowa Code section 510.14. In such cases, the new third-party administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior third-party administrator as required in Iowa Code section 510.14.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.18(510) Fees.

58.18(1) Fees to be paid directly to the division shall be paid by check. Fees accompanying electronic filings shall be paid in a manner as directed by the commissioner.

58.18(2) Fees related to this chapter are as follows:

a. The fee to accompany an application for a certificate of registration is \$100.

b. The fee to accompany the filing of an annual report is \$50.

c. The fee to renew a certificate of registration is \$100.

d. The fee for the late filing of an annual report or of an application to renew a certificate of registration is \$100.

58.18(3) The division may charge a reasonable fee for the compilation and production of records necessary to evaluate an application for a certificate of registration, an application for the renewal of a certificate of registration, or an annual report.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.19(510) Severability clause. If any provision of this chapter, or the application thereof to any person or circumstance, is subsequently held to be invalid, such invalidity shall not affect other provisions or applications of this chapter.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

191—58.20(510) Compliance date. All persons shall comply with this chapter on and after January 1, 2010.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]

These rules are intended to implement Iowa Code chapters 505 and 510.

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CHAPTER 6
TERMINATION AND TRANSFER

193E—6.1(543B) Terminating employment or association. When a licensee is discharged by the affiliated broker or the licensee terminates the employment or association with the affiliated broker, the licensee shall immediately cease all activities that require an active real estate license until such time as a new affiliated broker makes written request for the license and the license is reassigned to the new affiliated broker.

6.1(1) When a broker discharges a salesperson or broker associate, the broker shall comply with all requirements of Iowa Code section 543B.33 and immediately deliver or mail the discharged person's license to the commission. If the license is returned by mail, the releasing broker shall make reasonable effort to ensure that the commission receives the license within 72 hours of the discharge date.

6.1(2) The licensee may terminate the employment or association by providing written notice to the affiliated broker advising the effective date of the termination and requesting that the license be immediately returned to the commission. The affiliated broker shall not refuse to comply with the request. If the license is returned by mail, the releasing broker shall make every reasonable effort to ensure that the commission receives the license within 72 hours of the termination date.

6.1(3) If in the unlikely event that the license of a terminated or discharged salesperson or broker associate is misplaced or lost, this should not delay the transfer of the license to a new affiliating broker. The releasing broker shall provide written notification to the commission and attest that, if located, the license will be immediately shredded or otherwise destroyed. The releasing broker shall make every reasonable effort to ensure that the commission receives the written notice within 72 hours of the termination date.

193E—6.2(543B) Immediate transfer of license and required transfer form. All requests for immediate transfer of license must be made on the required license transfer form available from the commission. The license transfer form shall only be used for transferring the license from the affiliated broker to a new affiliated broker. This transfer form may only be used if the transferring licensee has obtained the required information from and dated signature of a new affiliating broker. The license transfer form shall not be used for licensees who are terminated or who quit prior to obtaining a new affiliating broker.

6.2(1) The immediate license transfer process involves three steps, and each step must be correctly completed in the proper order to qualify as a valid transfer. The steps are as follows:

a. Step 1. The transferring licensee must obtain certain identifying information and the signature of a new employing or affiliating broker.

b. Step 2. If a new affiliating broker has completed and signed step 1 of the Application to Transfer, the releasing broker shall, within 48 hours, make every reasonable effort to sign and return the form to the requesting licensee. The releasing broker shall retain copies for records to demonstrate compliance with Iowa Code section 543B.33.

c. Step 3. The transferring licensee must sign the transfer form, certifying that the information on the form is true and correct and acknowledging that providing false information would be a violation of Iowa Code section 543B.29(1), which could result in disciplinary action against the license.

6.2(2) After all three steps are completed, the new affiliating broker shall return the completed form and old license to the commission. If the form and license are returned by mail, the new affiliating broker shall make every reasonable effort to ensure that the commission receives the completed form and old license within 72 hours. To demonstrate compliance with this rule, the new affiliating broker shall retain copies of the completed transfer form and the old license until the new license has been reissued and received.

6.2(3) Transfer effective date. If all three steps to the transfer are completed in the required order, the effective date of the the transfer shall be the date of release from the releasing broker.

a. All signature dates must correspond to each of the three steps in the transfer process in the required order.

b. The releasing broker shall not sign a transfer form releasing a licensee unless a new affiliating broker has signed and dated the transfer form.

c. If the release date is prior to the effective date of the new affiliation, the required steps were not followed in the required order and the application does not qualify as an immediate transfer. The transfer effective date shall be the date of the new affiliation. The license will be placed on inactive status for that interim period when the transferring licensee does not have an affiliating broker and, as such, is prohibited from engaging in any real estate activity requiring an active license.

d. In the event the required transfer items are incomplete, the transfer shall not be effective until the date all items have been completed.

6.2(4) If all transfer steps are completed in the required order, the transferring licensee may begin working immediately and is not required to wait until a new license has been issued to the new affiliated broker. The new affiliated broker shall make a reasonable effort to deliver or mail, preferably by certified mail, the completed form and old license to the commission office to ensure that it is received within 72 hours. When the commission receives the completed form and old license, a new license will be reissued and mailed to the new affiliated broker with an effective date as provided in 6.2(3).

6.2(5) The required form for immediate transfer is available from the commission and on the commission's Web site at <http://www.state.ia.us/irec>. The following Application to Transfer Form is required to request the immediate transfer of a license pursuant to this rule:

IOWA REAL ESTATE COMMISSION 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021 APPLICATION TO TRANSFER	
Notice: This form is to be completed <u>only</u> if a licensee is transferring from one firm or broker to another firm or broker. When this transfer form has been completed, it <u>must</u> be mailed or hand-delivered with the old license to the Commission without delay within 72 hours. DO NOT FAX. When the completed and correct transfer form and old license are received, a new license will be issued with an effective date of transfer of either (1) the effective date of the new affiliation, or (2) the date of release from the previous broker, whichever is later. There are three steps to transfer AND THEY MUST be completed in the order in which they appear on this form.	
Step 1 (To be completed by new affiliating broker)	
Name of transferring licensee _____	License number _____
Type of license _____ (Salesperson or Broker Associate)	
Effective date of new affiliation _____	
Business name _____	
Name of new broker _____	License number _____
(Print or type)	
Your signature _____	Telephone _____ Date _____
(New broker)	
Step 2 (To be completed by releasing broker)	
Name of releasing broker _____	License number _____
(Print or type)	
Business name _____	
The license of the transferring individual is attached to this form in compliance with the immediate return of a license to the Commission as required by Iowa Code section 543B.33, Change of employment.	
Your signature _____	Date of release _____
(Releasing broker)	
Step 3 (To be completed by transferring licensee)	
I, _____, hereby certify that the above information is true and correct.	
(Print name of transferring licensee)	

I further acknowledge that providing false information on this transfer form would be in violation of Iowa Code section 543B.29(1), fraud in procuring a license, which could result in disciplinary action against my license.

Your signature _____ Telephone _____ Date _____
(Signature of transferring licensee)

[ARC 8284B, IAB 11/18/09, effective 12/23/09]

193E—6.3(543B) Broker authorized. Authorization from the following actively licensed brokers is required to return the license of a discharged or terminated salesperson or broker associate, to request that a license be issued, and to sign the license transfer form:

1. Sole-proprietor or single broker.
2. Broker officer of a corporation or firm.
3. Broker partner.
4. Designated broker in charge.
5. Broker in charge of a branch office.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 8284B (Notice ARC 8058B, IAB 8/26/09), IAB 11/18/09, effective 12/23/09]

CHAPTER 14
SELLER PROPERTY CONDITION DISCLOSURE

[Prior to 9/4/02, see 193E—Ch 1]

193E—14.1(543B) Property condition disclosure requirement. The requirements of this chapter shall apply to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the transfer or conveyance of real estate by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, including rental or lease agreements which contain any option to purchase, if the property includes at least one but no more than four dwelling units unless the transfer is exempted by Iowa Code section 558A.1(4).

14.1(1) Additional disclosure. Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise required by law or contract.

14.1(2) Licensee responsibilities to seller. At the time a licensee obtains a listing, the listing licensee shall obtain a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller shall deliver the executed statement to a potential buyer, a potential buyer’s agent, or any other third party who may be representing a potential buyer, prior to the seller’s making a written offer to sell or the seller’s accepting a written offer to buy.

b. The licensee representing a seller shall attempt to obtain the buyer’s signature and date of signature on the statement and shall provide the seller and the buyer with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer’s signature, the licensee shall obtain other documentation establishing delivery of the disclosure and maintain the written documentation in the transaction file.

c. If the transaction closes, the listing broker shall maintain the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement shall be delivered to the buyer(s) by either personal delivery or by certified or registered mail. If there is more than one buyer, any one buyer may accept delivery of the executed statement.

14.1(3) Licensee responsibilities to buyer. A licensee representing a buyer in a transfer shall notify the buyer of the seller’s obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when required, the licensee shall notify the buyer that the buyer may revoke or withdraw the offer.

b. If a buyer elects to revoke or withdraw the offer, the licensee shall obtain a written revocation or withdrawal from the buyer and shall deliver the revocation or withdrawal to the seller within three days following personal delivery or five days following delivery of the disclosure by mail to the buyer.

c. Following revocation or withdrawal of the offer, any earnest money deposit shall be promptly returned without liability pursuant to Iowa Code chapter 558A and rule 193E—13.4(543B).

14.1(4) Inclusion of written reports. A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by, but not limited to, the following persons provided that the content of the report or opinion is within the specified area of expertise of the provider: a land surveyor licensed pursuant to Iowa Code chapter 542B; a geologist; a structural pest control operator licensed pursuant to Iowa Code section 206.6; or a qualified building contractor.

a. The seller must identify the required disclosure items which are to be satisfied by the report.

b. If the report is prepared for the specific purpose of satisfying the disclosure requirement, the preparer of the report shall specifically identify the items of the disclosure which the report is intended to satisfy.

c. A licensee representing a seller shall provide the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

14.1(5) Amended disclosure statement. A licensee’s obligations with respect to any amended disclosure statement are the same as the licensee’s obligations with respect to the original disclosure

statement. A disclosure statement must be amended if information disclosed is or becomes inaccurate or misleading or is supplemented unless one of the following exceptions applies:

a. The information disclosed in conformance with Iowa Code chapter 558A is subsequently rendered inaccurate as a result of an act, occurrence, or agreement subsequent to the delivery of the disclosure statement.

b. The information disclosed is based on information of a public agency, including the state, a political subdivision of the state, or the United States.

14.1(6) Minimum disclosure statement contents for all transfers. All property disclosure statements, whether or not a licensee assists in the transaction, shall contain at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as required by Iowa Code chapter 558A. This law requires certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) must complete this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (**N/A**);
4. Please provide information in good faith and make a reasonable effort to ascertain the required information. If the required information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** must be identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

- | | | |
|--|---------|--------|
| 1. Basement/Foundation: Any known water or other problems? | Yes [] | No [] |
| 2. Roof: Any known problems? | Yes [] | No [] |
| Any known repairs? | Yes [] | No [] |
| If yes, date of repairs/replacement: ____/____/____ | | |
| 3. Well and Pump: Any known problems? | Yes [] | No [] |
| Any known repairs? | Yes [] | No [] |
| If yes, date of repairs/replacement: ____/____/____ | | |
| Any known water tests? | Yes [] | No [] |
| If yes, date of last report: ____/____/____ | | |
| and results: _____ | | |
| 4. Septic Tanks/Drain Fields: Any known problems? | Yes [] | No [] |
| Location of tank: _____ | | |
| Date tank last cleaned: ____/____/____ | | |
| 5. Sewer System: Any known problems? | Yes [] | No [] |
| Any known repairs? | Yes [] | No [] |

- If yes, date of repairs/replacement: ____/____/____
6. Heating System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
7. Central Cooling System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
8. Plumbing System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
9. Electrical System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [] No []
 If yes, date(s) of treatment: ____/____/____
 Any known structural damage? Yes [] No []
 If yes, date(s) of repairs/replacement: ____/____/____
11. Asbestos: Any known to be present in the structure? Yes [] No []
 If yes, explain: _____
12. Radon: Any known tests for the presence of radon gas? Yes [] No []
 If yes, date of last report: ____/____/____
 and results: _____
13. Lead-Based Paint: Any known to be present in the structure? Yes [] No []
14. Flood Plain: Do you know if the property is located in a flood plain? Yes [] No []
 If yes, what is the flood plain designation? _____
15. Zoning: Do you know the zoning classification of the property? Yes [] No []
 If yes, what is the zoning classification? _____
16. Covenants: Is the property subject to restrictive covenants? Yes [] No []
 If yes, attach a copy or state where a true, current copy of the covenants can be obtained:

17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [] No []
 Any known "common areas" such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [] No []
18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [] No []
19. Structural Damage: Any known structural damage? Yes [] No []

You **MUST** explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary: _____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer_____ Buyer_____
Date ____/____/____ Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.
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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]

CHAPTER 1

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

- 1.1(68A,68B) General agency description
- 1.2(68B) Requirements for requesting board advisory opinions
- 1.3(68B) Processing of advisory opinion requests; routine administrative advice
- 1.4(68B) Board code of ethics

CHAPTER 2

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 2.1(22,68A,68B) Definitions
- 2.2(22,68A,68B) Statement of policy
- 2.3(22,68A,68B) Requests for access to records
- 2.4(22,68A,68B) Procedures for access to confidential records
- 2.5(22,68A,68B) Request for treatment of a record as a confidential record
- 2.6(22,68A,68B) Procedure by which a subject may have additions, dissents or objections entered into the record
- 2.7(22,68A,68B) Consent to disclosure by the subject of a confidential record
- 2.8(22,68A,68B) Notice to suppliers of information
- 2.9(22,68A,68B) Disclosure without the consent of the subject
- 2.10(22,68A,68B) Routine use
- 2.11(22,68A,68B) Consensual disclosure of confidential records
- 2.12(22,68A,68B) Release to subject
- 2.13(22,68A,68B) Availability of records
- 2.14(22,68A,68B) Personally identifiable information
- 2.15(22,68A,68B) Other groups of records
- 2.16(22,68A,68B) Data processing systems
- 2.17(22,68A,68B) Limitation of applicability
- 2.18(68B) Use of information prohibited

CHAPTER 3

IOWA ELECTION CAMPAIGN FUND

- 3.1(68A) Interpretation of checkoff markings
- 3.2(68A) Distribution of funds
- 3.3(68A) Director of revenue—monthly reports
- 3.4(68A) Funds—application and transfer
- 3.5(68A) Nonlegitimate Iowa election campaign fund expenses; documentation; return of funds
- 3.6(68A) Legitimate campaign expenses
- 3.7(68A) Loss of party status
- 3.8(68A) Filing of Iowa election campaign fund report

CHAPTER 4
CAMPAIGN DISCLOSURE PROCEDURES

DIVISION I
ORGANIZATIONAL REQUIREMENTS

- 4.1(68A,68B) Requirement to file statement of organization (DR-1)—persons subject to requirements; financial thresholds; where to file; when due
- 4.2(68A,68B) Information required: committee name
- 4.3(68A,68B) Information required: committee purpose; party affiliation
- 4.4(68A,68B) Information required: officers; committee information; signatures
- 4.5(68A,68B) Segregation and timely deposit of funds; information required: identification of financial institution, account name; notice to treasurer
- 4.6(68A,68B) Amendments to statement of organization; requirement for new statement of organization for new office sought

DIVISION II
REPORTING AND FINANCIAL TRANSACTION REQUIREMENTS

- 4.7(68A,68B) Disclosure reporting required; information on initial report; minimum filing if no activity
- 4.8(68A,68B) Disclosure reporting required—where reports filed
- 4.9(68A) Campaign disclosure report due dates
- 4.10(68A) Time of filing
- 4.11(68A) Voluntary registration—Form DR-SFA
- 4.12(68A,68B) Exception from reporting requirement—reports due within five days of one another
- 4.13(68A,68B) Report forms—summary page (DR-2) and supporting schedules
- 4.14(68A,68B) Schedule A - Monetary Receipts
- 4.15(68A,68B) Schedule B - Monetary Expenditures
- 4.16(68A,68B) Schedule D - Incurred Indebtedness
- 4.17(68A,68B) Schedule E - In-kind Contributions
- 4.18(68A,68B) Schedule F - Loans Received and Repaid
- 4.19(68A) Schedule G - Breakdown of Monetary Expenditures by Consultants
- 4.20(68A,68B) Schedule H - Campaign Property
- 4.21(68A) Reconciled bank statement required with January report and final report
- 4.22(68A,68B) Verification of reports; incomplete reports
- 4.23(68A,68B) Amendment—statements, disclosure reports and notices
- 4.24(68A) Reporting of state party building fund transactions
- 4.25(68A,68B) Legitimate expenditures of campaign funds
- 4.26(68A) Transfers between candidates
- 4.27(68A) Filing of independent expenditure statement
- 4.28(68A) Prohibition on contributions and independent expenditures by foreign nationals
- 4.29(68A,68B) Contributions by minors
- 4.30(68A,68B) Funds from unknown source prohibited; subsequent identification of source; notice to contributors
- 4.31(68A) Information required for a trust to avoid a contribution in the name of another person
- 4.32(68A) Contributions from political committees not organized in Iowa
- 4.33(68A,68B) Reporting of earmarked contributions
- 4.34(68A) Copies of reports filed by 527 Committees
- 4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC
- 4.36(68A) Cash transactions
- 4.37(68A,68B) Record keeping

DIVISION III

POLITICAL MATERIAL—ATTRIBUTION STATEMENTS

- 4.38(68A) Political attribution statement—contents
- 4.39(68A) Specific items exempted from or subject to attribution statement requirement; multiple pages
- 4.40(68A,68B) Newspaper or magazine
- 4.41(68A,68B) Apparent violations; remedial action
- 4.42 and 4.43 Reserved

DIVISION IV

CORPORATE POLITICAL ACTIVITY

- 4.44(68A,68B) Use of corporate property prohibited
- 4.45(68A,68B) Corporate-sponsored political committee
- 4.46(68A) Voter education
- 4.47(68A,68B) Permitted activity—reimbursement required
- 4.48(68A) Sham newspapers not entitled to press exception
- 4.49(68A,68B) Individual property
- 4.50(68A) Political corporations
- 4.51(68A) Candidate debate—media organization; debate structure; debate funding; contribution reporting inapplicable
- 4.52(68A,68B) Corporate involvement with political committee funds

DIVISION V

INDEPENDENT EXPENDITURES AND IN-KIND CONTRIBUTIONS

- 4.53(68A,68B) Express advocacy; in-kind contributions; independent expenditures— definitions

DIVISION VI

COMMITTEE DISSOLUTION

- 4.54(68A) Committee dissolution; disposition of property; resolution of loans or debts
- 4.55(68A) Statement of dissolution; final report; final bank statement
- 4.56 and 4.57 Reserved

DIVISION VII

CIVIL PENALTIES FOR LATE REPORTS

- 4.58(68B) Late-filed campaign disclosure reports
- 4.59(68B) Routine civil penalty assessment for late-filed disclosure reports
- 4.60(68B) Requests for waiver of penalties
- 4.61(68B) Contested case challenge
- 4.62(68B) Payment of penalty

CHAPTER 5

USE OF PUBLIC RESOURCES FOR A POLITICAL PURPOSE

- 5.1(68A) Scope of chapter
- 5.2(68A) Applicability
- 5.3(68A) Definitions
- 5.4(68A) Use of public resources for a political purpose prohibited
- 5.5(68A) Exceptions from prohibition on use of public resources for a political purpose
- 5.6(68B) Board advice
- 5.7(68B) Complaints
- 5.8(68A) Holders of certain government positions prohibited from engaging in political activities

CHAPTER 6 EXECUTIVE BRANCH ETHICS

DIVISION I GENERAL PROVISIONS

- 6.1(68B) Scope of chapter
- 6.2(68B) Definitions
- 6.3(68B) Complaints or filing information alleging a violation
- 6.4(68B) Board advice

DIVISION II CONFLICT OF INTEREST AND MISUSE OF PROPERTY

- 6.5 to 6.7 Reserved
- 6.8(68B) Misuse of public property
- 6.9(68B) Use of confidential information

DIVISION III SALES OR LEASES OF GOODS OR SERVICES

- 6.10(68B) Prohibition on sales; when public bids required—disclosure of income
- 6.11(68B) Sales or leases by regulatory agency officials or employees
- 6.12(68B) Sales or leases by members of the office of the governor

DIVISION IV EMPLOYMENT RESTRICTIONS

- 6.13 Reserved
- 6.14(68B) Engaging in services against the interest of the state prohibited
- 6.15 Reserved

DIVISION V GIFTS AND OFFERS

- 6.16 to 6.18 Reserved
- 6.19(68B) Prohibition on receipt of an honorarium
- 6.20(68B) Loans from executive branch lobbyists prohibited

CHAPTER 7 PERSONAL FINANCIAL DISCLOSURE

- 7.1(68B) Filing requirements and procedures
- 7.2(68B) Information disclosed on form
- 7.3(68B) Procedure for determining persons required to file with the board—distribution of forms
- 7.4 Reserved
- 7.5(68B) Penalties
- 7.6(68B) Requests for waiver of penalties
- 7.7(68B) Contested case challenge
- 7.8(68B) Payment of penalty
- 7.9(68B) Retention and availability of filed forms

CHAPTER 8 EXECUTIVE BRANCH LOBBYING

- 8.1(68B) Executive branch lobbying defined
- 8.2(68B) Executive branch lobbyist defined
- 8.3(68B) Individuals not considered executive branch lobbyists
- 8.4(68B) Executive branch lobbyist client defined
- 8.5(68B) Lobbyist compensation defined; contingency fee lobbying prohibited
- 8.6(68B) Executive branch lobbying expenditures
- 8.7(68B) Lobbyist registration required
- 8.8(68B) Executive branch periodic lobbyist reports

8.9(68B)	Executive branch lobbyist client reporting
8.10	Reserved
8.11(68B)	Penalties for delinquent reports
8.12(68B)	Request for waiver of penalty
8.13(68B)	Contested case proceeding
8.14(68B)	Payment of penalty
8.15(68A)	Campaign contributions by lobbyists during the regular legislative session prohibited
8.16(68B)	Lobbyists prohibited from making loans
8.17(68B)	Ban on certain lobbying activities by government personnel
8.18(68B)	False communications prohibited
8.19(68B)	Advisory opinions
8.20(68)	Retention and availability of filed forms

CHAPTER 9

COMPLAINT, INVESTIGATION, AND RESOLUTION PROCEDURES

9.1(68B)	Complaints
9.2(68B)	Investigations—board action
9.3(68B)	Grounds for disciplinary action
9.4(68B)	Disciplinary remedies; administrative resolution of enforcement matters
9.5(68B)	Settlements
9.6(68B)	Whistle-blower protection

CHAPTER 10

Reserved

CHAPTER 11

CONTESTED CASE PROCEDURES

11.1(17A,68B)	Scope and applicability
11.2(17A,68B)	Definitions
11.3(17A,68B)	Time requirements
11.4(17A,68B)	Requests for contested case proceeding
11.5(17A,68B)	Notice of hearing
11.6(17A,68B)	Waiver of procedures
11.7(17A,68B)	Telephone proceedings
11.8(17A,68B)	Disqualification; request for administrative law judge
11.9(17A,68B)	Consolidation—severance
11.10(17A,68B)	Pleadings
11.11(17A,68B)	Service and filing of pleadings and other papers
11.12(17A,68B)	Discovery
11.13(17A,68B)	Subpoenas
11.14(17A,68B)	Motions
11.15(17A,68B)	Prehearing conference
11.16(17A,68B)	Continuances
11.17(17A,68B)	Withdrawals
11.18(17A,68B)	Intervention
11.19(17A,68B)	Hearing procedures
11.20(17A,68B)	Evidence
11.21(17A,68B)	Default
11.22(17A,68B)	Ex parte communication
11.23(17A,68B)	Recording costs
11.24(17A,68B)	Interlocutory appeals
11.25(17A,68B)	Final decision

- 11.26(17A,68B) Board review
- 11.27(17A,68B) Application for rehearing
- 11.28(17A,68B) Stay of agency actions
- 11.29(17A,68B) No factual dispute contested cases

CHAPTER 12 DECLARATORY ORDERS

- 12.1(17A,68B) Petition for declaratory order
- 12.2(17A,68B) Briefs
- 12.3(17A,68B) Notice of petition
- 12.4(17A,68B) Intervention
- 12.5(17A,68B) Inquiries
- 12.6(17A,68B) Board consideration
- 12.7(17A,68B) Action on petition
- 12.8(17A,68B) Refusal to issue order
- 12.9(17A,68B) Contents of declaratory order
- 12.10(17A,68B) Copies of orders
- 12.11(17A,68B) Effect of a declaratory order
- 12.12(17A,68B) Advisory opinion

CHAPTER 13 PETITIONS FOR RULE MAKING

- 13.1(68B) Petition for rule making
- 13.2(68B) Briefs
- 13.3(68B) Inquiries
- 13.4(68B) Board consideration

CHAPTER 14 BOARD PROCEDURE FOR RULE MAKING

- 14.1(17A) Applicability
- 14.2(17A) Advice on possible rules before notice of proposed rule adoption
- 14.3(17A) Public rule-making docket
- 14.4(17A) Notice of proposed rule making
- 14.5(17A) Public participation
- 14.6(17A) Regulatory analysis
- 14.7(17A,25B) Fiscal impact statement
- 14.8(17A) Time and manner of rule adoption
- 14.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 14.10(17A) Exemptions from public rule-making procedures
- 14.11(17A) Concise statement of reasons
- 14.12(17A) Contents, style, and form of rule
- 14.13(17A) Board rule-making record
- 14.14(17A) Filing of rules
- 14.15(17A) Effectiveness of rules prior to publication
- 14.16(17A) General statements of policy
- 14.17(17A) Review by board of rules

CHAPTER 15 WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 15.1(17A) Definition
- 15.2(17A,68A,68B) Scope of chapter
- 15.3(17A,68A,68B) Applicability
- 15.4(17A) Criteria for waiver

15.5(17A,68A,68B)	Filing of petition
15.6(17A)	Content of petition
15.7(17A)	Additional information
15.8(17A)	Notice
15.9(17A)	Hearing procedures
15.10(17A)	Ruling
15.11(17A,22)	Public availability
15.12(17A)	Summary reports
15.13(17A)	Cancellation of a waiver
15.14(17A,68A,68B)	Violations
15.15(17A,68A,68B)	Defense
15.16(17A)	Appeals

CHAPTER 1
IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 5]

[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 5]

[Prior to 8/21/02, see 351—Ch 5]

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

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

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

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

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

This rule is intended to implement Iowa Code sections 68B.32 and 68B.32A.

[Editorial change: IAC Supplement 4/8/09; **ARC 8287B**, IAB 11/18/09, effective 12/23/09]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

351—1.4(68B) Board code of ethics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Filed ARC 8287B (Notice ARC 8000B, IAB 7/29/09), IAB 11/18/09, effective 12/23/09]

[◇] Two or more ARCs

CHAPTER 4
CAMPAIGN DISCLOSURE PROCEDURES

[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. A committee that is mandated by statute to electronically file a statement of organization shall file the statement with the board on or before 4:30 p.m. on the due date. 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.

4.1(6) Electronic format or electronic filing defined. “Electronic format” or “electronic filing” means the board’s electronic filing system for submitting a statement of organization via the board’s Web site at www.iowa.gov/ethics.

This rule is intended to implement Iowa Code section 68A.201 and section 68A.401 as amended by 2009 Iowa Acts, Senate File 51, section 1.

[ARC 7995B, IAB 7/29/09, effective 9/2/09; ARC 8290B, IAB 11/18/09, effective 12/23/09]

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 duplicate the name of another committee organized under Iowa Code chapter 68A. The board shall determine whether two committee names are in duplication in violation of Iowa Code section 68A.201(2)“a.” A committee 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 duplicates the name of another organized committee. A committee shall not duplicate the name of a dissolved committee for a period of ten years after the dissolved committee is certified as being dissolved except when the candidate for both committees is the same individual.

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.

[ARC 7646B, IAB 3/25/09, effective 4/29/09]

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. 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 ballot issue committee. This type of committee also includes a political committee that expressly advocates for or against a statewide ballot issue (constitutional amendment) or a political committee that expressly advocates for or against ballot issue questions in multiple cities or counties.

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.
[ARC 8289B, IAB 11/18/09, effective 12/23/09]

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 whom the committee is required by statute to appoint. Each candidate's committee shall appoint a treasurer who shall be an Iowa resident and at least 18 years of age. Every other committee shall appoint a separate treasurer and chairperson, each of whom shall be at least 18 years of age. The committee may appoint other officers not required by statute without restriction on residency or age, and the committee is not required to disclose these officers. 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 filing an amended statement of organization for a new office shall continue to file the required campaign reports regardless of whether the \$750 financial filing threshold for the new office has been exceeded. A candidate who has filed a statement of organization for one office and who 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.

4.8(4) Electronic format or electronic filing defined. "Electronic format" or "electronic filing" means the board's electronic filing system for submitting campaign disclosure reports via the board's Web site at www.iowa.gov/ethics.

This rule is intended to implement Iowa Code section 68A.401 as amended by 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4. [ARC 7995B, IAB 7/29/09, effective 9/2/09]

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:

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

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

d. Special election.

<u>Report due</u>	<u>Covering period</u>
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:

<u>Office sought</u>	<u>Contribution threshold</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

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

c. Special election.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

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

c. Special election.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

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

c. Special election.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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.

<u>Report due</u>	<u>Covering period</u>
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) 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 section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4, 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. A report that is mandated by statute to be electronically filed shall be filed with the board on or before 4:30 p.m. on the 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 section 68A.401(1) as amended by 2009 Iowa Acts, Senate File 51, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4. [ARC 8290B, IAB 11/18/09, effective 12/23/09]

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.

4.11(3) *Subsequent elections.* A person that filed Form DR-SFA for one election and then becomes involved in a subsequent election and wants to voluntarily register a committee shall file either a new Form DR-SFA or file an amended Form DR-SFA, which provides information concerning the new election.

This rule is intended to implement Iowa Code sections 68A.201 and 68A.405. [ARC 7994B, IAB 7/29/09, effective 9/2/09]

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, and articles of clothing that are political advertising.

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. As provided in Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1, family members who perform actual work or services for a campaign and are not the candidate, candidate's spouse, or candidate's dependent children 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 that the candidate joins solely for the purpose of enhancing the candidate's candidacy.

u. Repayment of campaign loans made to the committee. As provided in Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1, candidates who make loans to their own committees shall not charge interest on the loans.

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. [ARC 7647B, IAB 3/25/09, effective 4/29/09; ARC 7801B, IAB 6/3/09, effective 7/8/09]

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. A candidate seeking to transfer funds, assets, loans, or debts under this subrule shall file either an amended statement of organization disclosing information for the new office sought or register a new committee regardless of whether the \$750 financial filing threshold for the new office will be exceeded.

This rule is intended to implement Iowa Code Supplement section 68A.303. [ARC 7992B, IAB 7/29/09, effective 9/2/09]

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code section 68A.404 as amended by 2009 Iowa Acts, Senate File 49, section 5, any person except a candidate,

a registered committee, a federal committee, or an out-of-state 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.

[ARC 7800B, IAB 6/3/09, effective 7/8/09]

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. For purposes of this rule, “contribution” does not include an item purchased at fair market value from an Iowa committee.

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 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. A VSR that is filed electronically using the board’s Web site is deemed signed when filed.

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).
[ARC 8286B, IAB 11/18/09, effective 12/23/09]

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) Copies of reports filed by 527 Committees. Iowa Code section 68A.401A requires the board to adopt a procedure for 527 Committees that file reports with the Internal Revenue Service and engage in issue advocacy in Iowa to file copies of those reports with the board. If a 527 Committee notifies the board that it is filing reports with the Internal Revenue Service, the 527 Committee will be deemed in compliance with Iowa Code section 68A.401A. The board will then establish on its Web site a link to the reports filed with the Internal Revenue Service, or the board will otherwise post on its Web site the reports filed with the Internal Revenue Service.

This rule is intended to implement Iowa Code section 68A.401A.

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 date and signature of the person filing Form DR-OTC. A Form DR-OTC that is filed electronically using the board's Web site is deemed signed when filed.

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, filed by fax at (515)281-4073, or filed electronically using the board's Web site at www.iowa.gov/ethics.

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 or electronically filed 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.

4.37(3) *Records forwarded.* An officer of a committee who is replaced by another officer shall forward within seven days any committee records to the subsequently appointed or elected committee officer. The board may grant an extension of time for good cause. The failure to forward records pursuant to this subrule may subject the former officer to board sanctions.

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.
[ARC 7998B, IAB 7/29/09, effective 9/2/09]

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 cost in excess of \$50 and 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 351—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) Sham newspapers not entitled to press exception. Iowa Code chapter 68A provides that when a media organization discusses candidates and public affairs, the media organization does not trigger the campaign laws. Iowa Code section 68A.503(2) “d” directs the board to adopt a rule prohibiting the owner, publisher, or editor of a sham newspaper from using the sham newspaper to promote in any way the candidacy of the person for public office. In determining whether or not a publication is entitled to the press exception or is a sham newspaper that triggers the campaign laws, the board will consider the following factors:

1. Whether the publication is published and made available on a regular schedule or interval;
2. The proximity to the election in which the candidates and public affairs are discussed;
3. Whether the publication contains news items and articles of opinion of a general character separate from discussions concerning candidates and public affairs;
4. How widely the publication is circulated or is otherwise made available to the public in comparison to a targeted audience for potential campaign purposes;
5. Whether the publication discusses all candidates for a particular election or otherwise gives all candidates equal space; and
6. Whether the publication expressly advocates for the candidacy of the owner, publisher, or editor of the publication or for the defeat of a campaign opponent of the owner, publisher, or editor of the publication.

This rule is intended to implement Iowa Code section 68A.503(2) “d.”
 [ARC 7866B, IAB 6/17/09, effective 7/22/09]

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. A campaign disclosure report is deemed filed late if it is not received by the board on or before the date and time the report is mandated to be filed pursuant to statute or board rule.

This rule is intended to implement Iowa Code section 68B.32A(8).
[ARC 8290B, IAB 11/18/09, effective 12/23/09]

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, county statutory, 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 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 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).
[ARC 7645B, IAB 3/25/09, effective 4/29/09]

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 by filing a Petition for Waiver of Civil Penalty form. 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 section 68B.32A(8).
[ARC 7996B, IAB 7/29/09, effective 9/2/09]

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.

4.62(3) Disclosure of payment. Rescinded IAB 3/25/09, effective 4/29/09.

This rule is intended to implement Iowa Code Supplement sections 68A.503 and 68B.32A(8).
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[◇] 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 7
PERSONAL FINANCIAL DISCLOSURE
[Prior to 7/9/03, see 351—Ch 11]

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

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

7.1(2) *Place of filing.* Form PFD shall be filed with the board electronically using the board's Web site at www.iowa.gov/ethics.

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

7.1(4) *Electronic receipt.* The board must receive electronically a filed Form PFD by 11:59 p.m. on April 30 of each year. If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline.

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

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

This rule is intended to implement Iowa Code sections 68B.32A(5), 68B.35 and 68B.35A.
[Editorial change: IAC Supplement 4/8/09; ARC 8288B, IAB 11/18/09, effective 12/23/09]

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

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

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

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

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

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

7.3(2) *Boards, commissions, or authorities not named in statute.* Pursuant to Iowa Code section 68B.35(2) "e," on an annual basis the board shall conduct a review to determine if a member of any other board, commission, or authority not specifically named in Iowa Code section 68B.35(2) "e" should file

Form PFD. If the board determines that Form PFD should be filed, the board shall by rule require a Form PFD to be filed.

7.3(3) *Statewide candidates.* A person who is a candidate for statewide office shall electronically file Form PFD with the board by 11:59 p.m. on April 30 of the year the candidate appears on the ballot. If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline. Once nomination papers or an affidavit of candidacy is filed, the board shall notify the person of the requirement to file Form PFD. The notification shall be sent by first-class mail or E-mail and shall include information on how to file Form PFD electronically.

7.3(4) *Statewide candidates in a special election.* A candidate for statewide office in a special election shall electronically file Form PFD with the board within ten days after the certification of the candidate's name as the nominee under Iowa Code section 43.88. Notification to a statewide candidate in a special election shall be sent by first-class mail or E-mail and shall include information on how to file Form PFD electronically.

7.3(5) *Distribution of link.* The board shall provide each agency with the link on the board's Web site at www.iowa.gov/ethics where forms shall be filed electronically.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.35.

[Editorial change: IAC Supplement 4/8/09; ARC 7802B, IAB 6/3/09, effective 7/8/09; ARC 8288B, IAB 11/18/09, effective 12/23/09]

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

351—7.5(68B) Penalties.

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

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

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

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

This rule is intended to implement Iowa Code sections 68B.32A(9) and 68B.35.

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

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

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

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).
[Editorial change: IAC Supplement 4/8/09; **ARC 7996B**, IAB 7/29/09, effective 9/2/09]

351—7.7(68B) Contested case challenge.

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

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

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

This rule is intended to implement Iowa Code sections 68B.32A(9) and 68B.33.
[Editorial change: IAC Supplement 4/8/09]

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

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

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

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

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

This rule is intended to implement Iowa Code sections 68B.35 and 68B.35A.
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CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program. The purpose of this program is to provide transitional health care coverage to uninsured children who are ineligible for Title XIX (Medicaid) assistance. The program is implemented and administered in compliance with Title XXI of the federal Social Security Act. The rules establish requirements for the third-party administrator responsible for the program administration and for the participating health plans that will be delivering services to the enrollees.

441—86.1(514I) Definitions.

“Applicant” shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size and who are listed on the application or renewal form.

“Benchmark benefit package” shall mean any of the following:

1. The standard Blue Cross Blue Shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. Section 8903(1).
2. A health benefits coverage plan that is offered and generally available to state employees in this state.
3. The plan of a health maintenance organization, as defined in 42 U.S.C. Section 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

“Capitation rate” shall mean the fee the department pays monthly to a participating health plan for each enrollee for the provision of covered medical services whether or not the enrollee received services during the month for which the fee is intended.

“Contract” shall mean the contract between the department and the person or entity selected as the third-party administrator or the contract between the department and the participating health plan for the provision of medical services to HAWK-I enrollees for whom the participating health plans assume risk.

“Cost sharing” shall mean the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and Iowa Code section 514I.10.

“Covered services” shall mean all or a part of those medical and health services set forth in rule 441—86.14(514I).

“Department” shall mean the Iowa department of human services.

“Director” shall mean the director of the Iowa department of human services.

“Earned income” means the earned income of all parents, spouses, and children under the age of 19 who are not students who are living together in accordance with subrule 86.2(3). Income shall be countable earned income when a person produces it as a result of the performance of services. “Earned income” includes:

1. All income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, and
2. The net profit from self-employment determined by comparing gross income produced from self-employment with the allowable costs of producing the income. The allowable costs of producing self-employment income shall be determined by the costs allowed for income tax purposes. Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. Losses from a self-employment enterprise may not be used to offset income from any other source.

“Eligible child” shall mean an individual who meets the criteria for participation in the HAWK-I program as set forth in rule 441—86.2(514I).

“Emergency medical condition” shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

"Emergency services" shall mean, with respect to an individual enrolled with a plan, covered inpatient and outpatient services which are furnished by a provider qualified to furnish these services and which are needed to evaluate and stabilize an emergency medical condition.

"Enrollee" shall mean a child who has been determined eligible for the program and who has been enrolled with a participating health plan.

"Family" shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size.

"Federal poverty level" shall mean the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

"Good cause" shall mean the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. There was a reason beyond the enrollee's control.
4. There was a failure to receive the third-party administrator's request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

"Gross countable income" means gross income minus exemptions permitted by paragraph 86.2(2) "b."

"Gross income" means a combination of the following:

1. Earned income,
2. Unearned income, and
3. Recurring lump-sum income prorated over the time the income is intended to cover.

"HAWK-I board" or *"board"* shall mean the entity that adopts rules, establishes policy, and directs the department regarding the HAWK-I program.

"HAWK-I program" or *"program"* shall mean the healthy and well kids in Iowa program implemented in this chapter to provide health care coverage to eligible children.

"Health insurance coverage" shall mean health insurance coverage as defined in 42 U.S.C. Section 300gg(c).

"Institution for mental diseases" shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

"Nonmedical public institution" shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1009 as amended November 10, 1994.

"Participating health plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

"Physician" shall be defined as provided in Iowa Code subsection 135.1(4).

"Provider" shall mean an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical care or services to an enrollee pursuant to the HAWK-I program.

"Recurring lump-sum income" means earned and unearned lump-sum income that is received on a regular basis. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

"Regions" shall mean the six regions of the state as follows:

- Region 1: Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, Sac, Monona, Crawford, and Carroll.
- Region 2: Kossuth, Winnebago, Worth, Mitchell, Howard, Hancock, Cerro Gordo, Floyd, Pocahontas, Humboldt, Wright, Franklin, Calhoun, Webster, Hamilton, Hardin, Greene, Boone, Story, Marshall, and Tama.
- Region 3: Winneshiek, Allamakee, Chickasaw, Fayette, Clayton, Butler, Bremer, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Jones, Jackson, Cedar, Clinton, and Scott.
- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.
- Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
- Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.

"Self-employed" means that a person satisfies any of the following conditions:

1. The person is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
2. The person establishes the person's own working hours, territory, and methods of work; or
3. The person files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

"Third-party administrator" shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

"Unearned income" means cash income of all parents, spouses, and children under the age of 19 who are living together in accordance with subrule 86.2(3) that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. Social security benefits, meaning the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

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441—86.2(514I) Eligibility factors. The decision with respect to eligibility shall be based primarily on information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the HAWK-I program.

86.2(1) Age. The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child's nineteenth birthday.

86.2(2) Income.

a. Gross countable income. In determining initial and ongoing eligibility for the HAWK-I program, gross countable income shall not exceed 300 percent of the federal poverty level for a family of the same size.

b. Exempt income. The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

- (1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:
 1. An inheritance.
 2. A one-time bonus.
 3. Lump sum lottery winnings.
 4. Other one-time payments.

- (2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.
- (3) The value of benefits issued in the Food Assistance Program.
- (4) The value of the United States Department of Agriculture donated foods (surplus commodities).
- (5) The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.
- (6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.
- (7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.
- (8) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.
- (9) Interest and dividend income.
- (10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.
- (11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.
- (12) Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.
- (13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.
- (14) Experimental housing allowance program payments.
- (15) The income of a Supplemental Security Income (SSI) recipient.
- (16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3) "c."
- (17) Income in kind.
- (18) Family support subsidy program payments.
- (19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.
- (20) Bona fide loans.
- (21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
- (22) Payment for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.
- (23) Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383 entitled Wartime Relocation of Civilians.
- (24) Payments received from the Radiation Exposure Compensation Act.
- (25) Reimbursements from a third party or from an employer for job-related expenses.
- (26) Payments received for providing foster care when the family is operating a licensed foster home.
- (27) Any payments received as a result of an urban renewal or low-cost housing project from any governmental agency.
- (28) Retroactive corrective payments.
- (29) The training allowance issued by the division of vocational rehabilitation, department of education.
- (30) Payments from the PROMISE JOBS program.
- (31) The training allowance issued by the department for the blind.
- (32) Payments from passengers in a car pool.
- (33) Compensation in lieu of wages received by a child under the Job Training Partnership Act of 1982.

(34) Any amount for training expenses included in a payment issued under the Job Training Partnership Act of 1982.

(35) Earnings of a child under the age of 19 who is a full-time student as defined at 441—75.54(1) “b”(1) and (2).

(36) Incentive payments received from participation in the adolescent pregnancy prevention programs.

(37) Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complementary assistance by federal regulations.

(38) Incentive allowance payments received from the work force investment project, provided the payments are considered complementary assistance by federal regulation.

(39) Honorarium income and all moneys paid to an eligible family in connection with the welfare reform longitudinal study.

(40) Family investment program (FIP) benefits.

(41) Moneys received through pilot self-sufficiency grants or diversion programs.

(42) Income that has ended as of the date of application.

(43) Any income restricted by law or regulation that is paid to a representative payee living outside the home, other than to a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

(44) A federal or state earned income tax credit, regardless of whether the payment is received with the regular paycheck or as a lump sum with the federal or state income tax refund.

(45) All earnings received by temporary workers from the U.S. Bureau of the Census.

c. Verification of income. Income shall be verified using the best information available. For example, earnings from the 30 days before the date of application may be used to verify earned income if it is representative of the income expected in future months.

(1) Pay stubs, tip records, tax records and employers’ statements are acceptable forms of verification of earned income.

(2) Unearned income shall be verified through data matches when possible, award letters, warrant copies, or other acceptable means of verification.

(3) Self-employment income shall be verified using business records or income tax returns from the previous year if they are representative of anticipated earnings.

(4) When a child who has been determined ineligible for Medicaid is referred to the HAWK-I program, the third-party administrator shall use the income amount used by the Medicaid program unless rules in this chapter require the income to be treated differently.

d. Changes in income. Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child’s eligibility to participate in the HAWK-I program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(514I).

86.2(3) Family size. For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall consist of all persons living together who are children under the age of 19 or who are parents of those children as defined below.

EXCEPTION: Persons who are receiving Supplemental Security Income (SSI) under Title XVI of the Social Security Act or who are voluntarily excluded in accordance with the provisions of paragraph “c” below are not considered in determining family size.

a. Children. A child under the age of 19 and any siblings under the age of 19 of whole or half blood or adoptive shall be considered together unless the child is emancipated due to marriage, in which case, the emancipated child is not included in the family size unless the marriage has been annulled. Emancipated children, their spouses, and children who live with parents or siblings of the emancipated child shall be considered as a separate family when establishing eligibility for the HAWK-I program.

b. Parents. Any parent living with the child under the age of 19 shall be included in the family size. This includes the biological parent, stepparent, or adoptive parent of the child and is not dependent upon whether the parents are married to each other. In situations where the parents do not live together

but share joint physical custody of the children, the family size shall be based on the household in which the child spends the majority of time. If both parents share physical custody equally, either parent may apply on behalf of the child and the family size shall be based on the household of the applying parent.

c. Persons who may be excluded when determining family size. If including a child in the family size causes siblings to be ineligible, the family may choose not to count the child in the family size. However, this rule shall not apply when the child is receiving Supplemental Security Income (SSI) benefits because SSI recipients are not counted in determining family size for the purposes of HAWK-I eligibility.

d. Temporary absence from the home. The following policies shall be applied to any person who would be counted in the family size in accordance with paragraphs “a” and “b” who is temporarily absent from the home.

(1) When a person is absent from the home to secure education or training (e.g., the person is attending college), the person shall be included when establishing the size of the family at home and, if otherwise eligible, shall be covered under the program.

(2) When a person is absent from the home to secure medical care, the person shall be included when establishing the size of the family at home and, if otherwise eligible, shall be covered under the program when the reason for the absence is expected to last less than 12 months.

(3) When a person is absent from the home because the person is an inmate in a nonmedical public institution (e.g., a penal institution) in accordance with the provisions of subrule 86.2(9), the person shall be included when establishing the size of the family at home if the absence is expected to be less than three months. However, when the person is a child under the age of 19, coverage under the program shall not be provided pursuant to subrule 86.2(10) until the child returns to the home.

(4) When a child is absent from the home because the child is in foster care, the child shall not be included when establishing the size of the family at home.

(5) When a child is absent from the home for a vacation or a visit to an absent parent, for example, the child shall be included in establishing the size of the family at home and, if otherwise eligible, shall be covered under the program if the absence is expected to be less than three months.

86.2(4) Uninsured status. The child must be uninsured.

a. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan shall not be considered insured for purposes of the HAWK-I program if:

(1) The plan provides coverage only for a specific disease or service (such as a vision, dental, or cancer policy), or

(2) The child does not have reasonable geographic access to care under that plan. “Reasonable geographic access” means that the plan or an option available under the plan does not have service area limitations or, if the plan has service area limitations, the child lives within 30 miles or 30 minutes of a network primary care provider.

b. A child whose health insurance ends in the month of application shall be considered uninsured for purposes of HAWK-I eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2) “c.”

c. American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the HAWK-I program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

86.2(5) Ineligibility for Medicaid. The child shall not be receiving Medicaid or eligible to receive Medicaid if application were made except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

a. A child who would be eligible for Medicaid except for the parent’s failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program.

b. Children who are excluded from the Medicaid household due to the income or resources of the child may participate in the HAWK-I program if otherwise eligible.

86.2(6) Iowa residency. The child shall be a resident of the state of Iowa. A resident of Iowa is a person:

a. Who is living in Iowa voluntarily with the intention of making that person's home in Iowa and not for a temporary purpose; or

b. Who, at the time of application, is not receiving assistance from another state and entered Iowa with a job commitment or to seek employment or who is living with parents or guardians who entered Iowa with a job commitment or to seek employment.

86.2(7) *Citizenship and alien status.* The child shall be a citizen or lawfully admitted alien. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program.

a. The citizenship or alien status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

b. As a condition of eligibility for HAWK-I:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration. EXCEPTION: Applicants applying pursuant to subrule 86.3(6) shall instead complete and sign Form 470-2549, Statement of Citizenship Status.

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or alien status and for providing any required proof of the status.

c. Except as provided in 441—paragraph 75.11(2)“f,” applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7)“b” shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2)“d,” “e,” “g,” and “h.”

d. An applicant or enrollee shall have a reasonable period to obtain and provide proof of citizenship and nationality. For the purposes of this requirement, the “reasonable period” begins on the date a written request to obtain and provide proof is issued to an applicant or enrollee and continues to the date the proof is provided or to the sixtieth calendar day from the date the written request was issued.

e. Eligibility for HAWK-I shall not be approved for applicants until acceptable documentary evidence is provided.

f. Failure to provide acceptable documentary evidence by the sixtieth calendar day from the date the written request was issued pursuant to paragraph 86.2(7)“d” shall be the basis for denial of coverage under HAWK-I for the child.

g. Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the HAWK-I program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee unless the state contributes only a nominal amount toward the cost of dependent coverage. “Nominal amount” shall mean \$10 or less per month.

86.2(9) *Inmates of nonmedical public institutions.* The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(11) *Preexisting medical conditions.* The child shall not be denied eligibility based on the presence of a preexisting medical condition.

86.2(12) *Furnishing a social security number.*

a. As a condition of eligibility, a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under HAWK-I is being requested or received.

(1) When proof of application for a social security number has been provided, the number must be reported upon receipt.

(2) The requirement to provide a social security number does not apply if the person refuses to obtain a social security number because of well-established religious objections. The term “well-established religious objections” means that the person is a member of a recognized religious sect

or a division of a recognized religious sect and adheres to the tenets or teachings of the sect or division, and for that reason is conscientiously opposed to applying for or using a national identification number.

b. Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of a social security number when the applicant or enrollee is cooperating in providing information necessary for issuance of the number.

c. The mother of a newborn child shall have until the second month following the mother's discharge from the hospital to apply for a social security number for the child.

d. A social security number may be requested for a person in the family for whom coverage under HAWK-I is not being requested or received, but provision of the number shall not be a condition of eligibility for the applicant or enrollee.

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441—86.3(514I) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply without delay. When the request is made in person, the requester shall immediately be given an application form. When a request is made that the application form be mailed, it shall be sent in the next outgoing mail.

a. Child lives with parents. When the child lives with the child's parents, including stepparents and adoptive parents, the parent shall file the application on behalf of the child unless the parent is unable to do so.

If the parent is unable to act on the child's behalf because the parent is incompetent or physically disabled, another person may file the application on behalf of the child. The responsible person shall be a family member, friend or other person who has knowledge of the family's financial affairs and circumstances and a personal interest in the child's welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall sign the application form and assume the responsibilities of the incompetent or disabled parent in regard to the application process and ongoing eligibility determinations.

b. Child lives with someone other than a parent. When the child lives with someone other than a parent (e.g., another relative, friend, guardian), the person who has assumed responsibility for the care of the child may apply on the child's behalf. This person shall sign the application form and assume responsibility for providing all information necessary to establish initial and ongoing eligibility for the child.

c. Child lives independently or is married. When a child under the age of 19 lives in an independent living situation or is married, the child may apply on the child's own behalf, in which case, the child shall be responsible for providing all information necessary to establish initial and ongoing eligibility. If the child is married, both the child and the spouse shall sign the application form.

86.3(2) *Application form.* An application for the HAWK-I program shall be submitted on Comm. 156, HAWK-I Application, or on Form 470-4016, HAWK-I Electronic Application Summary and Signature, unless the family applies for the Medicaid program first.

a. When an application has been filed for the Medicaid program in accordance with the provisions of rule 441—76.1(249A) and Medicaid eligibility does not exist in accordance with the provisions of rule 441—75.1(249A), or the family must meet a spenddown in accordance with the provisions of 441—subrule 75.1(35) before the child can attain eligibility, the Medicaid application shall be used to establish eligibility for the HAWK-I program in lieu of the HAWK-I Application, Comm. 156, or Form 470-4016, HAWK-I Electronic Application Summary and Signature.

b. Applications may be obtained by telephoning the toll-free telephone number of the third-party administrator or by accessing the Web site at www.hawk-i.org.

86.3(3) *Place of filing.* An application for the HAWK-I program shall be filed with the third-party administrator responsible for making the eligibility determination. Any local or area office of the department of human services, disproportionate share hospital, federally qualified health center, other facilities in which outstationing activities are provided, school nurse, Head Start, maternal and child

health center, WIC office, or other entity may accept the application. However, all applications shall be forwarded to the third-party administrator.

86.3(4) *Date and method of filing.* The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.

a. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

b. Electronic applications. When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature.

86.3(5) *Right to withdraw application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application shall be documented, and the applicant shall be sent a notice of decision confirming the request.

86.3(6) *Application not required.*

a. An application shall not be required when a child becomes ineligible for Medicaid and the local office of the department makes a referral to the HAWK-I program.

(1) A referral to the HAWK-I program pursuant to subrule 86.4(3) or 86.4(4) shall be accepted in lieu of an application.

(2) The original Medicaid application or the last review form that is on file in the local office of the department, whichever is more current, shall suffice to meet the signature requirements.

b. A new application shall not be required when an eligible child is added to an existing HAWK-I eligible group.

86.3(7) *Information and verification procedure.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee.

a. The third-party administrator shall notify the applicant, enrollee, or person acting on behalf of the applicant or enrollee in writing of additional information or verification that is required to establish eligibility. The third-party administrator shall provide this notice personally, by mail, or by facsimile.

b. Failure to supply the information or verification or refusal to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall have ten working days to supply the information or verification requested by the third-party administrator. The third-party administrator may extend the deadline for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) *Time limit for decision.* The third-party administrator shall make a decision regarding the applicant's eligibility to participate in the HAWK-I program within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed within the period for a reason that is beyond the control of the third-party administrator.

a. EXCEPTION: When the application is referred for a Medicaid eligibility determination and Medicaid eligibility is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date the administrator receives the notice of Medicaid denial unless additional verification is needed.

b. "Day one" of the ten-day period shall mean the first working day following the date of receipt of a completed application and all necessary information and verification.

86.3(9) *Applicant cooperation.* An applicant must cooperate with the third-party administrator in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

86.3(10) *Waiting lists.* When the department has established that all of the funds appropriated for this program are obligated, the third-party administrator shall deny all subsequent applications for HAWK-I coverage unless Medicaid eligibility exists.

a. The third-party administrator shall mail a notice of decision. The notice shall state that:

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The person does not meet eligibility requirements. In which case, the applicant shall not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, the third-party administrator shall refer the application to the Medicaid program for an eligibility determination. If Medicaid eligibility exists, the department shall approve the child for Medicaid coverage in accordance with 441—86.4(514I).

c. The third-party administrator shall enter applicants on the waiting list on the basis of the date an identifiable application form specified in subrule 86.3(2) is date-stamped by the third-party administrator. An identifiable application is an application containing a legible name, address, and signature.

(1) In the event that more than one application is received on the same day, the third-party administrator shall enter applicants on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) The third-party administrator shall decide any subsequent ties by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, the third-party administrator shall select applicants from the waiting list based on the order in which their names appear on the list and shall notify them of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, the third-party administrator shall delete the applicant's name from the waiting list and shall contact the next applicant on the waiting list.

86.3(11) *Falsification of information.* Rescinded IAB 11/19/08, effective 1/1/09.

86.3(12) *Applications pending due to unavailability of a plan.* When there is no participating health plan in the applicant's county of residence, the application shall be held until a plan is available. The application shall be processed when a plan becomes available and coverage shall be effective the first day of the month the plan becomes available.

441—86.4(514I) Coordination with Medicaid.

86.4(1) *HAWK-I applicant appears eligible for Medicaid.* At the time of initial application, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made by the third-party administrator to the department for a determination of Medicaid eligibility as follows:

a. The original Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016, HAWK-I Electronic Application Summary and Signature Page, and copies of any accompanying information and verification shall be forwarded to the department within 24 hours, or the next working day, whichever is sooner. The third-party administrator shall maintain a copy of all documentation sent to the department and a log to track the disposition of all referrals.

b. The third-party administrator shall notify the family that the referral has been made. The third-party administrator shall return to the family any original verification and information that was submitted with the application and retain a copy in the file record.

c. The referral shall be considered an application for Medicaid in accordance with the provisions of rule 441—76.1(249A). The time limit for processing the referred application begins with the date the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016,

HAWK-I Electronic Application Summary and Signature Page, is date-stamped as being received by the third-party administrator.

86.4(2) *HAWK-I enrollee appears eligible for Medicaid.* At the time of the annual review, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the third-party administrator shall make a referral to the department for a determination of Medicaid eligibility as stated in subrule 86.4(1) above. However, the child shall remain eligible for the HAWK-I program pending the Medicaid eligibility determination unless the 12-month certification period expires first.

86.4(3) *Medicaid applicant not eligible.* If a child is not eligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of 441—75.59(249A) and meets the criteria specified at 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

a. The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

b. The third-party administrator shall date-stamp Form 470-3563 with the date the completed form is received.

c. The third-party administrator shall notify the family of the referral and proceed with an eligibility determination under the HAWK-I program.

d. The period for processing the referral begins with the day on which:

(1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or

(2) The third-party administrator receives the electronic referral file.

86.4(4) *Medicaid member becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of rule 441—75.59(249A) and meets the criteria specified at subrule 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

a. The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

b. The third-party administrator shall:

(1) Date-stamp Form 470-3563 with the date the completed form is received;

(2) Notify the family of the referral; and

(3) Proceed with an eligibility determination under the HAWK-I program.

c. The period for processing the referral begins with the day on which:

(1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or

(2) The third-party administrator receives the electronic referral file.

441—86.5(514I) Effective date of coverage.

86.5(1) *Initial application.* Coverage for children who are determined eligible for the HAWK-I program on the basis of an initial application for either HAWK-I or Medicaid shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed, or when a plan becomes available in the applicant's county of residence. However, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph 86.8(2) "c" when the child's health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

- a. The child is moving from Medicaid to HAWK-I.
- b. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.
- c. The cost of health insurance coverage for the child exceeds 5 percent of the family's gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.
- d. The health insurance was provided through an individual plan.
- e. The child's health insurance coverage was lost due to:
 - (1) Domestic violence.
 - (2) Divorce or death of a parent.
 - (3) An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.
 - (4) A job change to a new employer that does not offer the parent dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.
 - (5) Utilization of the maximum lifetime coverage amount.
 - (6) Expiration of coverage under COBRA.
 - (7) Discontinuation of dependent coverage by the parent's employer.
 - (8) A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

86.5(2) Referrals from Medicaid.

a. *Cancellation of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost, regardless of the date of the referral, in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

b. *Denial of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to denial of Medicaid benefits shall be effective no earlier than the first day of the month following the month in which the Medicaid application was received in accordance with 441—subrule 76.1(2). However, when such a child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

86.5(3) Annual renewals. Coverage for children who are determined eligible for the HAWK-I program on the basis of an annual renewal shall be effective the first day of the month following the month in which the previous enrollment period ended.

86.5(4) Children added to an existing HAWK-I enrollment period. Coverage for children who are determined eligible for the HAWK-I program on the basis of a request from the family to add the child to an existing enrollment period shall be effective the first day of the month following the month in which the request was made. However, if the child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost unless the child is subject to a one-month waiting period in accordance with paragraph 86.2(4) "b."

[ARC 8281B, IAB 11/18/09, effective 12/23/09]

441—86.6(514I) Selection of a plan. At the time of initial application, if there is more than one participating plan available in the child's county of residence, the applicant shall select the plan in which the applicant wishes to enroll as part of the eligibility process. The enrollee may change plans only at the time of the annual review unless the provisions of subrule 86.7(1) or paragraph 86.6(2) "a" apply. The applicant may designate the plan choice verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose but is not required.

86.6(1) Coverage in another county's plan. If a child traditionally travels to another county to receive medical care, the applicant may choose to participate in the plan available in the county in which the child receives medical care.

86.6(2) Period of enrollment. Once enrolled in a plan, the child shall remain enrolled in the selected plan for a period of 12 months unless:

a. There is a substantial change in the provider panel of the health plan originally chosen, as determined by the board. A substantial change means, but is not limited to, loss of a contracted hospital or provider group. When there is another participating health plan available in the child's county of residence, the child may disenroll from the current plan and enroll in the other health plan.

b. The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the plan and subsequently reapplies before the end of the original 12-month enrollment period, the child shall be enrolled in the plan from which the child was originally disenrolled unless the provisions of subrule 86.7(1) apply.

c. The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

86.6(3) Failure to select a plan. When more than one plan is available, if the applicant fails to select a plan within ten working days of the written request to make a selection, the third-party administrator shall select the plan and notify the family of the enrollment. The third-party administrator shall select the plan on a rotating basis to ensure an equitable distribution between participating plans.

If the third-party administrator has assigned a child a plan, the family has 30 days to request enrollment into another participating plan. All changes shall be made prospectively and shall be effective on the first day of the month following the month of the request. If the family has not requested a change of enrollment into another available plan within 30 days, the provisions of 86.6(2) shall apply.

441—86.7(514I) Disenrollment. The child shall be disenrolled from the selected plan prior to the end of the 12-month enrollment period for any of the following:

86.7(1) Child moves from the service area. The child may be disenrolled from the plan when the child moves to an area of the state in which the plan does not have a provider network established. If the child is disenrolled, the child shall be enrolled in a participating plan in the new location. The period of enrollment shall be the number of months remaining in the original certification period.

86.7(2) Age. The child shall be disenrolled from the plan and canceled from the HAWK-I program as of the first day of the month following the month in which the child attained the age of 19.

86.7(3) Nonpayment of premiums. The child shall be disenrolled from the plan and canceled from the program as of the first day of the month in which premiums are not paid in accordance with the provisions of subrules 86.8(3) and 86.8(5).

86.7(4) Iowa residence abandoned. The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which the child relocated to another state. A child shall not be disenrolled when the child is temporarily absent from the state in accordance with the provisions of subrule 86.2(6).

86.7(5) Eligible for Medicaid. The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which the third-party administrator is notified of Medicaid eligibility. If there are months during which the child is covered by both the Medicaid and HAWK-I programs, the HAWK-I program shall be the primary payor and Medicaid shall be the payor of last resort.

86.7(6) Enrolled in other health insurance coverage. The child shall be disenrolled from the plan as of the first day of the month following the month in which the third-party administrator is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the HAWK-I program, the other insurance plan shall be the primary payor and HAWK-I shall be the payor of last resort.

86.7(7) Admission to a nonmedical public institution. The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which the child

enters a nonmedical public institution unless the temporary absence provisions of paragraph 86.2(3) “d” apply.

86.7(8) Admission to an institution for mental disease. The child shall be disenrolled from the plan and canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(9) Employment with the state of Iowa. The child shall be disenrolled from the plan and canceled from the HAWK-I program as of the first day of the month in which the child’s parent became eligible to participate in a health plan available to state of Iowa employees.

441—86.8(514I) Premiums and copayments.

86.8(1) Income considered. The countable income considered in determining the premium amount shall be the family’s gross countable income minus 20 percent of the family’s earned income.

86.8(2) Premium amount. Premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

- (1) The eligible child is an American Indian or Alaskan Native; or
- (2) The family’s countable income is less than 150 percent of the federal poverty level for a family of the same size.

b. If the family’s countable income is equal to or exceeds 150 percent of the federal poverty level for a family of the same size but does not exceed 200 percent of the federal poverty level for a family of that size, the premium is \$10 per child per month with a \$20 monthly maximum per family.

c. If the family’s countable income is equal to or exceeds 200 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

86.8(3) Due date.

a. *Payment upon initial application.* “Initial application” means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the tenth day of the second month following the month of decision.

b. *Payment upon renewal.* “Renewal” means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the tenth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the third-party administrator shall notify the plan of the enrollment.

c. *Subsequent payments.* All subsequent premiums are due by the tenth day of each month for the next month’s coverage and must be postmarked no later than the last day of the month before the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in disenrollment from the plan. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

86.8(4) Reinstatement. A child may be reinstated once per enrollment period when the family fails to pay the premium by the last day of the month for the next month’s coverage. If the premium is subsequently received, coverage will be reinstated if the premium was postmarked or otherwise paid in the calendar month immediately following disenrollment.

86.8(5) Method of premium payment. Premiums may be submitted in the form of cash, personal checks, automatic bank account withdrawals, or other methods established by the third-party administrator.

86.8(6) Failure to pay premium. Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in disenrollment from the plan and cancellation from the program unless the

reinstatement provisions of subrule 86.8(4) apply. Once a child is disenrolled and canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

86.8(7) Copayment. There shall be a \$25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 150 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

[ARC 7770B, IAB 5/20/09, effective 7/1/09]

441—86.9(514I) Annual reviews of eligibility. All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" shall be the first month in which coverage is provided.

86.9(1) Review form. The third-party administrator shall send the family Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, on which the answers, except for income, have been completed based on the information on file. The family shall review the completed information for accuracy and fill in the income section of the form. The family shall be required to provide verification of current income and sign and date the form attesting to its accuracy as part of the review process.

86.9(2) Failure to provide information. The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process.

86.9(3) Change in plan. At the time of the annual review of eligibility, if more than one plan is available, the child may be enrolled in another plan. The plan choice may be designated verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose. The child shall remain enrolled in the current plan if the family does not notify the third-party administrator, either verbally or in writing, of a new plan choice by the end of the current 12-month enrollment period.

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported timely to the third-party administrator. "Timely" shall mean no later than ten working days after the change occurred. "Day one" of the ten-day period shall mean the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. If the child is emancipated, married, or otherwise in an independent living situation, the child shall be responsible for reporting the change.

86.10(1) Pregnancy. The pregnancy of a child shall be reported when the pregnancy is diagnosed.

86.10(2) Entry to a nonmedical public institution. The entry of a child into a nonmedical public institution, such as a penal institution, shall be reported following entry to the institution.

86.10(3) Iowa residence is abandoned. The abandonment of Iowa residence shall be reported following the move from the state.

86.10(4) Other insurance coverage. Enrollment of the child in other health insurance coverage shall be reported.

86.10(5) Employment with the state of Iowa. The employment of the child's parent with the state of Iowa shall be reported.

86.10(6) Decrease in income. If the family reports a decrease in income, the third-party administrator shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(7) Failure to report changes. Rescinded IAB 11/19/08, effective 1/1/09.

86.10(8) Information reported by a third party. Information reported by a third party shall not be acted upon until the information is verified in accordance with subrule 86.3(7).

86.10(9) Cooperation. The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the

program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

86.10(10) *Effective date of change in eligibility.*

a. When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

b. When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

c. When an anticipated change in circumstances is reported before the change occurs, no action shall be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

441—86.11(514I) Notice requirements. The applicant shall be provided an adequate written notice of the decision of the third-party administrator regarding the applicant's eligibility for the HAWK-I program. The enrollee shall be notified in writing of any decision that adversely affects the enrollee's eligibility or the amount of benefits. The notice shall be timely and adequate as provided in 441—subrule 7.7(1).

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision by the third-party administrator to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

441—86.13(514I) Third-party administrator. The third-party administrator shall have the following responsibilities:

86.13(1) *Determination of eligibility.* The third-party administrator shall determine eligibility in accordance with the provisions of rule 441—86.2(514I).

86.13(2) *Dissemination of application forms and information.* The third-party administrator shall disseminate the following:

a. Rescinded IAB 10/17/01, effective 12/1/01.

b. Outreach materials, application forms, or other materials developed and produced by the department to any organization or individual making a request for the materials. If the request is for quantities exceeding ten, the third-party administrator shall forward the request to Iowa prison industries for dissemination.

c. Participating health plan information.

d. Other materials as specified by the department.

86.13(3) *Toll-free dedicated customer services line.* The third-party administrator shall maintain a toll-free multilingual dedicated customer service line in accordance with the requirements of the department.

86.13(4) *HAWK-I program web site.* The third-party administrator shall work in cooperation with the department to maintain a web site providing information about the HAWK-I program.

86.13(5) *Application process.* The third-party administrator shall process applications in accordance with the provisions of rule 441—86.3(514I).

a. Processing applications and mailing of approvals and denials shall be completed within ten working days of receipt of the application and all necessary information and verification unless the application cannot be processed within this period for a reason beyond the control of the third-party administrator.

b. Original verification information shall be returned to the applicant or enrollee upon completion of review.

86.13(6) *Tracking of applications.* The third-party administrator shall track and maintain applications. This includes, but is not limited to, the following procedures:

- a. Date-stamping all applications with the date of receipt.
- b. Screening applications for completeness and requesting in writing any additional information or verification necessary to establish eligibility. All information or verification of information attained shall be logged.
- c. Entering all applications received into the data system with an identifier status of pending, approved, or denied.
- d. Referring applications to the county office of the department, when appropriate, and receiving application referrals from the department.
- e. Rescinded IAB 7/9/03, effective 7/1/03.
- f. Notifying the plans when the number of enrollees who speak the same non-English language equals or exceeds 10 percent of the number of enrollees in the plan.

86.13(7) *Effective date of coverage.* The third-party administrator shall establish effective date of coverage in accordance with the provisions of rule 441—86.5(514I).

86.13(8) *Selection of plan.* The third-party administrator shall provide participating health plan information to families of eligible children by telephone or mail and, if necessary, offer unbiased assistance in the selection of a plan in accordance with the provisions of rule 441—86.6(514I).

86.13(9) *Enrollment.* The third-party administrator shall notify participating health plans of enrollments.

86.13(10) *Disenrollments.* The third-party administrator shall disenroll an enrollee in accordance with the provisions of rule 441—86.7(514I). The third-party administrator shall notify the participating health plan when an enrollee is disenrolled.

86.13(11) *Annual reviews of eligibility.* The third-party administrator shall annually review eligibility in accordance with the provisions of rules 441—86.2(514I) and 441—86.9(514I).

86.13(12) *Acting on reported changes.* The third-party administrator shall ensure that all changes reported by the HAWK-I enrollee in accordance with rule 441—86.10(514I) are acted upon no later than ten working days from the date the change is reported.

86.13(13) *Premiums.* The third-party administrator shall:

- a. Calculate premiums in accordance with the provisions of rule 441—86.8(514I).
- b. Collect HAWK-I premium payments. The funds shall be deposited into an interest-bearing account maintained by the department for periodic transmission of the funds and any accrued interest to the HAWK-I trust fund in accordance with state accounting procedures.
- c. Track the status of the enrollee premium payments and provide the data to the department.
- d. Mail a reminder notice to the family if the premium is not received by the due date.

86.13(14) *Notices to families.* The third-party administrator shall develop and provide timely and adequate approval, denial, and cancellation notices to families that clearly explain the action being taken in regard to an application or an existing enrollment. Denial and cancellation notices shall clearly explain the appeal rights of the applicant or enrollee. All notices shall be available in English and Spanish.

86.13(15) *Records.* The third-party administrator shall at a minimum maintain the following records:

- a. All records required by the department and the department of inspections and appeals.
- b. Records which identify transactions with or on behalf of each enrollee by social security number or other unique identifier.
- c. Application, case and financial records.
- d. All other records as required by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

86.13(16) *Confidentiality.* The third-party administrator shall protect and maintain the confidentiality of HAWK-I applicants and enrollees in accordance with 441—Chapter 9.

86.13(17) *Reports to the department.* The third-party administrator shall submit reports as required by the department.

86.13(18) Systems. The third-party administrator shall maintain data files that are compatible with the department's and the health plans' data files and shall make the system accessible to department staff.

441—86.14(514I) Covered services. The benefits provided under the HAWK-I program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act.

86.14(1) Required services. The participating health plan shall cover at a minimum the following medically necessary services:

a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).

b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).

c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).

d. Ambulance services.

e. Physical therapy.

f. Nursing care services (including skilled nursing facility services).

g. Speech therapy.

h. Durable medical equipment.

i. Home health care.

j. Hospice services.

k. Prescription drugs.

l. Dental services (including restorative and preventative services).

m. Hearing services.

n. Vision services (including corrective lenses).

86.14(2) Abortion. Payment for abortion shall only be made under the following circumstances:

a. The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.

b. The pregnancy was the result of an act of rape or incest.

441—86.15(514I) Participating health plans.

86.15(1) Licensure. The participating health plan must be licensed by the division of insurance of the department of commerce to provide health care coverage in Iowa or be an organized delivery system licensed by the director of public health to provide health care coverage.

86.15(2) Services. The participating health plan shall provide health care coverage for the services specified in rule 441—86.14(514I) to all children determined eligible by the third-party administrator.

a. The participating health plan shall make services it provides to HAWK-I enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating plan does not provide statewide coverage, the plan shall participate in every county within the region in which the plan has contracted to provide services in which it is licensed and in which a provider network has been established. Regions are specified in rule 441—86.1(514I).

86.15(3) Premium tax. Premiums paid to participating health plans by the third-party administrator are exempt from premium tax.

86.15(4) Provider network. The participating health plan shall establish a network of providers. Providers contracting with the participating health plan shall comply with HAWK-I requirements, which shall include collecting copayments, if applicable.

86.15(5) *Medical cards.* Medical identification cards shall be issued by the participating health plan to the enrollees for use in securing covered services.

86.15(6) *Marketing.*

a. Participating health plans may not distribute directly or through an agent or independent contractor any marketing materials.

b. All marketing materials require prior approval from the department.

c. At a minimum, participating health plans must provide the following material in writing or electronically:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the HAWK-I enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All plan literature and brochures shall be available in English and any other language when enrollment in the plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the plan and shall be made available to the third-party administrator for distribution.

d. All health plan literature and brochures shall be approved by the department.

e. The participating health plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other “cold-call” marketing.

f. The participating health plan may make marketing presentations at the discretion of the department.

86.15(7) *Appeal process.* The participating health plan shall have a written procedure by which enrollees may appeal issues concerning the health care services provided through providers contracted with the plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames which ensure that appeals be resolved within 60 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals which is made available to the department at its request.

i. Ensures that the participating health plan’s written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health plan make quarterly reports to the department summarizing appeals and resolutions.

86.15(8) *Appeals to the department.* Rescinded IAB 1/13/99, effective 1/1/99.

86.15(9) *Records and reports.* The participating health plan shall maintain records and reports as follows:

a. The plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the plan or subcontractor of the plan, as appropriate, must maintain a medical records system that:

(1) Identifies each medical record by HAWK-I enrollee identification number.

(2) Maintains a complete medical record for each enrollee.

(3) Provides a specific medical record on demand.

(4) Meets state and federal reporting requirements applicable to the HAWK-I program.

(5) Maintains the confidentiality of medical records information and releases the information only in accordance with established policy below:

1. All medical records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical records information to physicians, other practitioners, or facilities that are providing services to enrollees under a subcontract with the plan. This provision also applies to specialty providers who are retained by the plan to provide services which are infrequently used, which provide a support system service to the operation of the plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

3. Written consent is not required for the transmission of medical records information to physicians or facilities providing emergency care pursuant to paragraph 86.15(2) "b."

4. Written consent is required for the transmission of the medical records information of a former enrollee to any physician not connected with the plan.

5. The extent of medical records information to be released in each instance shall be based upon a test of medical necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical records maintained by subcontractors shall meet the requirements of this rule.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

- (1) A list of providers of medical services under the plan.
- (2) Rescinded IAB 10/17/01, effective 12/1/01.
- (3) Rescinded IAB 10/17/01, effective 12/1/01.
- (4) Rescinded IAB 10/17/01, effective 12/1/01.
- (5) Encounter data on a monthly basis as required by the department.
- (6) Rescinded IAB 10/17/01, effective 12/1/01.
- (7) Other information as directed by the department.

c. Each plan shall at a minimum provide reports and plan information to the department as follows:

- (1) Information regarding the plan's appeal process.
- (2) A plan for a health improvement program.
- (3) Periodic financial, utilization and statistical reports as required by the department.
- (4) Time-specific reports which define activity for child health care, appeals and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered or other differences.

(5) Other information as directed by the department.

86.15(10) Systems. The participating health plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

86.15(11) Payment to the participating health plan.

a. In consideration for all services rendered by a plan, the plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the plan for risks assumed under the current or any previous contract. The plan accepts the rate as payment in full for the contracted services. Any savings realized by the plan due to lower utilization from a less

frequent incidence of health problems among the enrolled population shall be wholly retained by the plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical expenses, it is the right and responsibility of the plan to investigate these third-party resources and attempt to obtain payment. The plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) Quality assurance. The plan shall have in effect an internal quality assurance system.

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)“c” shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

441—86.17(514I) Use of donations to the HAWK-I program. If an individual or other entity makes a monetary donation to the HAWK-I program, the department shall deposit the donation into the HAWK-I trust fund. The department shall track all donations separately and shall not commingle the donations with other moneys in the trust fund. The department shall report the receipt of all donations to the HAWK-I board.

86.17(1) If the donor specifically identifies the purpose of the donation, regardless of the amount, the donation shall be used as specified by the donor as long as the identified purpose is permissible under state and federal law.

86.17(2) If the donation is less than \$5,000 and the donor does not specifically identify how it is to be used, the department shall use the moneys in the following order:

- a.* For the direct benefit of enrollees (e.g., premium payments).
- b.* For outreach activities.
- c.* For other purposes as determined by the HAWK-I board.

86.17(3) If the donation is more than \$5,000 and the donor does not specify how the funds are to be used, the HAWK-I board shall determine how the funds are to be used.

441—86.18(505) Health insurance data match program. All carriers, as defined in Iowa Code section 514C.13, shall enter into an agreement with the department to provide data necessary to allow the department to comply with the mandate of Iowa Code section 505.25. Each carrier shall either:

1. Enter into and maintain an agreement with the department on Form 470-4435, HAWK-I Data Use Agreement; or
2. Provide proof of an existing agreement with the department or the department’s designee.

441—86.19(514I) Recovery.

86.19(1) Definitions.

“*Administrative error*” means an action attributed to the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child's Medicaid eligibility.

“*Client error*” means an intentional or negligent action attributed to the enrollee that results in incorrect payment of benefits, including premiums paid to a health plan, because the enrollee or the enrollee's representative:

1. Failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. Failed to timely report a change as defined in rule 441—86.10(514I).

86.19(2) *Amount subject to recovery from the enrollee or representative.* The department may recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a health plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health plan to a provider of medical services are not subject to recovery from the enrollee regardless of the cause of the error.

86.19(3) *Notification.* The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

- a. The name of the person for whom funds were incorrectly paid;
- b. The period during which the funds were incorrectly paid;
- c. The amount subject to recovery; and
- d. The reason for the incorrect payment.

86.19(4) *Recovery.*

a. Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee's representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

b. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

c. Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

86.19(5) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 514I.

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INSPECTIONS AND APPEALS DEPARTMENT[481]**CHAPTER 1
ADMINISTRATION**

- 1.1(10A) Organization
- 1.2(10A) Definitions
- 1.3(10A) Audits division
- 1.4(10A) Investigations division
- 1.5(10A) Inspections division
- 1.6(10A) Administrative hearings division
- 1.7(10A) Administering discretion
- 1.8(10A) Employment appeal board
- 1.9(10A) Foster care review board
- 1.10(10A) The state appellate defender
- 1.11(10A) Hospital licensing board
- 1.12(10A) Health facilities division

**CHAPTER 2
PETITIONS FOR RULE MAKING**

- 2.1(17A) Petition for rule making
- 2.2(17A) Briefs
- 2.3(17A) Inquiries
- 2.4(17A) Agency consideration

**CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)**

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.12(17A) Effect of a declaratory order

**CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)**

- 4.3(17A) Public rule-making docket
- 4.4(17A) Notice of proposed rule making
- 4.5(17A) Public participation
- 4.6(17A) Regulatory analysis
- 4.10(17A) Exemptions from public rule-making procedures
- 4.11(17A) Concise statement of reasons
- 4.13(17A) Agency rule-making record

**CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)**

- 5.1(17A,22) Definitions
- 5.3(17A,22) Requests for access to records

- 5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record
- 5.9(17A,22) Disclosures without the consent of the subject
- 5.10(17A,22) Routine use
- 5.11(17A,22) Consensual disclosure of confidential records
- 5.12(17A,22) Release to subject
- 5.13(17A,22) Availability of records
- 5.14(17A,22) Authority to release confidential records
- 5.15(17A,22) Personnel files
- 5.16(17A,22) Personally identifiable information

CHAPTER 6

UNIFORM WAIVER AND VARIANCE RULES

- 6.1(10A,17A,ExecOrd11) Applicability
- 6.2(10A,17A,ExecOrd11) Definitions
- 6.3(10A,17A,ExecOrd11) Interpretive rules
- 6.4(10A,17A,ExecOrd11) Compliance with statute
- 6.5(10A,17A,ExecOrd11) Criteria for waiver or variance
- 6.6(10A,17A,ExecOrd11) Filing of petition
- 6.7(10A,17A,ExecOrd11) Content of petition
- 6.8(10A,17A,ExecOrd11) Additional information
- 6.9(10A,17A,ExecOrd11) Notice
- 6.10(10A,17A,ExecOrd11) Hearing procedures
- 6.11(10A,17A,ExecOrd11) Ruling
- 6.12(10A,17A,ExecOrd11) Public availability
- 6.13(10A,17A,ExecOrd11) Voiding or cancellation
- 6.14(10A,17A,ExecOrd11) Violations
- 6.15(10A,17A,ExecOrd11) Defense
- 6.16(10A,17A,ExecOrd11) Appeals
- 6.17(10A,17A,ExecOrd11) Sample petition for waiver or variance

CHAPTER 7

CONSENT FOR THE SALE OF GOODS AND SERVICES

- 7.1(68B) General prohibition
- 7.2(68B) Definitions
- 7.3(68B) Conditions of consent for officials
- 7.4(68B) Application for consent
- 7.5(68B) Effect of consent
- 7.6(22,68B) Public information
- 7.7(68B) Appeal

CHAPTER 8

LICENSING ACTIONS FOR NONPAYMENT OF CHILD SUPPORT AND STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

- 8.1(252J) Certificates of noncompliance
- 8.2(261) Student loan default/noncompliance with agreement for payment of obligation
- 8.3(261) Suspension or revocation of a license

CHAPTER 9
INDIGENT DEFENSE CLAIMS PROCESSING

9.1(232,815)	Definitions
9.2(815)	Claims submitted by a public defender
9.3(815)	Claims submitted by a private attorney
9.4(815)	Claims submitted by a county
9.5(815)	Claims for other professional services
9.6(10A)	Processing and payment
9.7(10A)	Payment errors
9.8(10A)	Availability of records

CHAPTER 10
CONTESTED CASE HEARINGS

10.1(10A)	Definitions
10.2(10A,17A)	Time requirements
10.3(10A)	Requests for a contested case hearing
10.4(10A)	Transmission of contested cases
10.5(17A)	Notices of hearing
10.6(10A)	Waiver of procedures
10.7(10A,17A)	Telephone proceedings
10.8(10A,17A)	Scheduling
10.9(17A)	Disqualification
10.10(10A,17A)	Consolidation—severance
10.11(10A,17A)	Pleadings
10.12(17A)	Service and filing of pleadings and other papers
10.13(17A)	Discovery
10.14(10A,17A)	Subpoenas
10.15(10A,17A)	Motions
10.16(17A)	Prehearing conference
10.17(10A)	Continuances
10.18(10A,17A)	Withdrawals
10.19(10A,17A)	Intervention
10.20(17A)	Hearing procedures
10.21(17A)	Evidence
10.22(17A)	Default
10.23(17A)	Ex parte communication
10.24(10A,17A)	Decisions
10.25(10A,17A)	DIA appeals
10.26(10A,17A,272C)	Board hearings
10.27(10A)	Transportation hearing fees
10.28(10A)	Recording costs
10.29(10A)	Code of administrative judicial conduct

CHAPTERS 11 to 19
Reserved

AUDITS DIVISION

CHAPTERS 20 and 21
Reserved

CHAPTER 22
HEALTH CARE FACILITY AUDITS

- 22.1(10A) Audit occurrence
22.2(10A) Confidentiality

CHAPTERS 23 and 24
Reserved

CHAPTER 25
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM

- 25.1(73) Definitions
25.2(10A) Certification
25.3(17A) Description of application
25.4(10A) Eligibility standards
25.5(10A) Special consideration
25.6(10A) Family-owned business
25.7(10A) Cottage industry
25.8(10A) Decertification
25.9(12) Request for bond waiver
25.10(714) Fraudulent practices in connection with targeted small business programs
25.11(17A) Appeal procedure

CHAPTERS 26 to 29
Reserved

INSPECTIONS DIVISION

CHAPTER 30
FOOD AND CONSUMER SAFETY

- 30.1(10A) Food and consumer safety bureau
30.2(10A) Definitions
30.3(137C,137D,137F,196) Licensing and postings
30.4(137C,137D,196) License fees
30.5(137F) Penalty and delinquent fees
30.6(137C,137D,137F,196) Returned checks
30.7(137F) Double licenses
30.8(137C,137D,137F) Inspection frequency
30.9(137D,137F,196) Disposal standards
30.10 Reserved
30.11(22) Examination of records
30.12(137C,137D,137F,196) Denial, suspension or revocation of a license to operate
30.13(10A,137F) Formal hearing
30.14(137D,137F,196) False label or defacement

CHAPTER 31
FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

- 31.1(137F) Inspection standards
31.2(137F) Food processing plant standards
31.3(137F) Trichinae control for pork products prepared at retail
31.4(137F) Certified food protection programs
31.5(137F) Labeling
31.6(137F) Adulterated food and disposal
31.7 Reserved

- 31.8(137F) Enforcement
- 31.9(137F) Toilets and lavatories
- 31.10(137F) Warewashing sinks in establishments serving alcoholic beverages
- 31.11(137F) Criminal offense—conviction of license holder
- 31.12(137F) Temporary food establishments and farmers market potentially hazardous food licensees

CHAPTERS 32 and 33

Reserved

CHAPTER 34

HOME FOOD ESTABLISHMENTS

- 34.1(137D) Inspection standards
- 34.2(137D) Enforcement
- 34.3(137D) Labeling requirement
- 34.4(137D) Annual gross sales
- 34.5(137D) Criminal offense—conviction of license holder

CHAPTER 35

CONTRACTOR REQUIREMENTS

- 35.1(137C,137D,137F) Definitions
- 35.2(137C,137D,137F) Contracts
- 35.3(137C,137D,137F) Contractor
- 35.4(137C,137D,137F) Contractor inspection personnel
- 35.5(137C,137D,137F) Investigation
- 35.6(137C,137D,137F) Inspection standards
- 35.7(137C,137D,137F) Enforcement
- 35.8(137C,137D,137F) Licensing
- 35.9(137C,137D,137F) Records
- 35.10(137C,137D,137F) Reporting requirements
- 35.11(137C,137D,137F) Contract rescinded

CHAPTER 36

EGG HANDLERS

- 36.1(196) Definitions
- 36.2(196) Licensing
- 36.3(196) Minimum sanitation and operating requirements
- 36.4(196) Egg grading or candling area
- 36.5(196) Water supply
- 36.6(196) Egg storage
- 36.7(196) Eggs used in food preparation
- 36.8(196) Labeling and packaging
- 36.9(196) Restricted eggs
- 36.10(196) Records
- 36.11(196) Enforcement
- 36.12(196) Health and hygiene of personnel
- 36.13(196) Iowa grades

CHAPTER 37

HOTEL AND MOTEL INSPECTIONS

- 37.1(137C) Building and grounds
- 37.2(137C) Guest rooms
- 37.3(137C) Bedding

37.4(137C)	Lavatory facilities
37.5(137C)	Glasses and ice
37.6(137C)	Employees
37.7(137C)	Room rates
37.8(137C)	Inspections
37.9(137C)	Enforcement
37.10(137C)	Criminal offense—conviction of license holder

CHAPTERS 38 and 39

Reserved

CHAPTER 40

FOSTER CARE FACILITY INSPECTIONS

40.1(10A)	License surveys
40.2(10A)	Unannounced inspections
40.3(10A)	Results
40.4(10A)	Ownership of records

CHAPTER 41

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

41.1(135H)	Definitions
41.2(135H)	Application for license
41.3(135H)	Renewal application or change of ownership
41.4(135H)	Licenses for distinct parts
41.5(135H)	Variances
41.6(135H)	Notice to the department
41.7(135H)	Inspection of complaints
41.8(135H)	General requirement
41.9(135H)	Certification of need for services
41.10(135H)	Active treatment
41.11(135H)	Individual plan of care
41.12(135H)	Individual written plan of care
41.13(135H)	Plan of care team
41.14(135H)	Required discharge
41.15(135H)	Criminal behavior involving children
41.16(22,135H)	Confidential or open information

CHAPTERS 42 to 49

Reserved

CHAPTER 50

HEALTH CARE FACILITIES ADMINISTRATION

50.1(10A)	Inspections
50.2(10A)	Definitions
50.3(135B,135C)	Licensing
50.4(135C)	Fines and citations
50.5(135C)	Denial, suspension or revocation
50.6(10A)	Formal hearing
50.7(10A,135C)	Additional notification
50.8(22,135B,135C)	Records
50.9(135C)	Background checks

CHAPTER 51
HOSPITALS

51.1(135B)	Definitions
51.2(135B)	Classification, compliance and license
51.3(135B)	Quality improvement program
51.4(135B)	Long-term acute care hospital located within a general hospital
51.5(135B)	Medical staff
51.6(135B)	Patient rights and responsibilities
51.7(135B)	Abuse
51.8(135B)	Organ and tissue—requests and procurement
51.9(135B)	Nursing services
51.10 and 51.11	Reserved
51.12(135B)	Records and reports
51.13	Reserved
51.14(135B)	Pharmaceutical service
51.15	Reserved
51.16(135B)	Radiological services
51.17	Reserved
51.18(135B)	Laboratory service
51.19	Reserved
51.20(135B)	Food and nutrition services
51.21	Reserved
51.22(135B)	Equipment for patient care
51.23	Reserved
51.24(135B)	Infection control
51.25	Reserved
51.26(135B)	Surgical services
51.27	Reserved
51.28(135B)	Anesthesia services
51.29	Reserved
51.30(135B)	Emergency services
51.31	Reserved
51.32(135B)	Obstetric and neonatal services
51.33	Reserved
51.34(135B)	Pediatric services
51.35	Reserved
51.36(135B)	Psychiatric services
51.37	Reserved
51.38(135B)	Long-term care service
51.39(135B)	Penalty and enforcement
51.40(135B)	Validity of rules
51.41 to 51.49	Reserved
51.50(135B)	Minimum standards for construction after January 26, 1994, and prior to July 8, 1998
51.51(135B)	Minimum standards for construction after July 8, 1998, and prior to May 22, 2002
51.52(135B)	Minimum standards for construction after May 22, 2002
51.53(135B)	Critical access hospitals

CHAPTER 52

DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

- 52.1(235E) Definitions
- 52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for those persons
- 52.3(235E) Reports and registry of dependent adult abuse
- 52.4(235E) Financial institution employees and reporting suspected financial exploitation
- 52.5(235E) Evaluation of report
- 52.6(235E) Separation of victim and alleged abuser
- 52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations
- 52.8(235E) Notification to subsequent employers

CHAPTER 53

HOSPICE LICENSE STANDARDS

- 53.1(135J) Definitions
- 53.2(135J) License
- 53.3(135J) Patient rights
- 53.4(135J) Governing body
- 53.5(135J) Quality assurance and utilization review
- 53.6(135J) Attending physician services
- 53.7(135J) Medical director
- 53.8(135J) Interdisciplinary team (IDT)
- 53.9(135J) Nursing services
- 53.10 Reserved
- 53.11(135J) Coordinator of patient care
- 53.12(135J) Social services
- 53.13(135J) Counseling services
- 53.14(135J) Volunteer services
- 53.15(135J) Spiritual counseling
- 53.16(135J) Optional services
- 53.17(135J) Contracted services
- 53.18(135J) Short-term hospital services
- 53.19(135J) Bereavement services
- 53.20(135J) Records

CHAPTER 54

GOVERNOR'S AWARD FOR QUALITY CARE

- 54.1(135C) Purpose
- 54.2(135C) Definitions
- 54.3(135C) Nomination
- 54.4(135C) Applicant eligibility
- 54.5(135C) Nomination information
- 54.6(135C) Evaluation
- 54.7(135C) Selection of finalists
- 54.8(135C) Certificate of recognition

CHAPTER 55

Reserved

CHAPTER 56
FINING AND CITATIONS

56.1(135C)	Authority for citations
56.2(135C)	Classification of violations—classes
56.3(135C)	Fines
56.4(135C)	Time for compliance
56.5(135C)	Failure to correct a violation within the time specified—penalty
56.6(135C)	Treble fines for repeated violations
56.7(135C)	Notation of classes of violations
56.8(135C)	Notation for more than one class of violation
56.9(135C)	Factors determining selection of class of violation
56.10(135C)	Factors determining imposition of citation and fine
56.11(135C)	Class I violation not specified in the rules
56.12(135C)	Class I violation as a result of multiple lesser violations
56.13(135C)	Form of citations
56.14(135C)	Licensee's response to a citation
56.15(135C)	Procedure for facility after informal conference
56.16(135C)	Contesting a citation for a class I violation
56.17(135C)	Formal contest

CHAPTER 57
RESIDENTIAL CARE FACILITIES

57.1(135C)	Definitions
57.2(135C)	Variances
57.3(135C)	Application for licensure
57.4(135C)	Special categories
57.5(135C)	General requirements
57.6(135C)	Notifications required by the department
57.7	Reserved
57.8(135C)	Licenses for distinct parts
57.9(135C)	Administrator
57.10(135C)	Administration
57.11(135C)	General policies
57.12(135C)	Personnel
57.13(135C)	Admission, transfer, and discharge
57.14(135C)	Contracts
57.15(135C)	Physical examinations
57.16(135C)	Records
57.17(135C)	Resident care and personal services
57.18	Reserved
57.19(135C)	Drugs
57.20(135C)	Dental services
57.21(135C)	Dietary
57.22(135C)	Service plan
57.23(135C)	Resident activities program
57.24(135C)	Resident advocate committee
57.25(135C)	Safety
57.26(135C)	Housekeeping
57.27(135C)	Maintenance
57.28(135C)	Laundry
57.29(135C)	Garbage and waste disposal
57.30(135C)	Buildings, furnishings, and equipment

57.31(135C)	Family and employee accommodations
57.32(135C)	Animals
57.33(135C)	Environment and grounds
57.34(135C)	Supplies
57.35(135C)	Residents' rights in general
57.36(135C)	Involuntary discharge or transfer
57.37(135C)	Residents' rights
57.38(135C)	Financial affairs—management
57.39(135C)	Resident abuse prohibited
57.40(135C)	Resident records
57.41(135C)	Dignity preserved
57.42(135C)	Resident work
57.43(135C)	Communications
57.44(135C)	Resident activities
57.45(135C)	Resident property
57.46(135C)	Family visits
57.47(135C)	Choice of physician
57.48(135C)	Incompetent residents
57.49(135C)	County care facilities
57.50(135C)	Another business or activity in a facility
57.51(135C)	Respite care services

CHAPTER 58 NURSING FACILITIES

58.1(135C)	Definitions
58.2(135C)	Variances
58.3(135C)	Application for licensure
58.4(135C)	General requirements
58.5(135C)	Notifications required by the department
58.6	Reserved
58.7(135C)	Licenses for distinct parts
58.8(135C)	Administrator
58.9(135C)	Administration
58.10(135C)	General policies
58.11(135C)	Personnel
58.12(135C)	Admission, transfer, and discharge
58.13(135C)	Contracts
58.14(135C)	Medical services
58.15(135C)	Records
58.16(135C)	Resident care and personal services
58.17	Reserved
58.18(135C)	Nursing care
58.19(135C)	Required nursing services for residents
58.20(135C)	Duties of health service supervisor
58.21(135C)	Drugs, storage, and handling
58.22(135C)	Rehabilitative services
58.23(135C)	Dental, diagnostic, and other services
58.24(135C)	Dietary
58.25(135C)	Social services program
58.26(135C)	Resident activities program
58.27(135C)	Resident advocate committee
58.28(135C)	Safety

58.29(135C)	Resident care
58.30	Reserved
58.31(135C)	Housekeeping
58.32(135C)	Maintenance
58.33(135C)	Laundry
58.34(135C)	Garbage and waste disposal
58.35(135C)	Buildings, furnishings, and equipment
58.36(135C)	Family and employee accommodations
58.37(135C)	Animals
58.38(135C)	Supplies
58.39(135C)	Residents' rights in general
58.40(135C)	Involuntary discharge or transfer
58.41(135C)	Residents' rights
58.42(135C)	Financial affairs—management
58.43(135C)	Resident abuse prohibited
58.44(135C)	Resident records
58.45(135C)	Dignity preserved
58.46(135C)	Resident work
58.47(135C)	Communications
58.48(135C)	Resident activities
58.49(135C)	Resident property
58.50(135C)	Family visits
58.51(135C)	Choice of physician and pharmacy
58.52(135C)	Incompetent resident
58.53(135C)	County care facilities
58.54(73GA, ch 1016)	Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility)
58.55(135C)	Another business or activity in a facility
58.56(135C)	Respite care services

CHAPTER 59

Reserved

CHAPTER 60

MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES

60.1(135C)	Definitions
60.2(135C)	Variances
60.3(135C)	General requirements
60.4(135C)	Typical construction
60.5(135C)	Supervised care unit
60.6(135C)	Support area
60.7(135C)	Service area
60.8(135C)	Administration and staff area
60.9(135C)	Definition of public area
60.10(135C)	Elevator requirements
60.11(135C)	Mechanical requirements
60.12(135C)	Electrical requirement
60.13(135C)	Codes and standards

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR
NURSING FACILITIES

61.1(135C)	Definitions
61.2(135C)	Variances
61.3(135C)	General requirements
61.4(135C)	Typical construction
61.5(135C)	Nursing care unit
61.6(135C)	Facility support area
61.7(135C)	Service area
61.8(135C)	Administration and staff area
61.9(135C)	Public area
61.10(135C)	Elevator requirements
61.11(135C)	Mechanical requirements
61.12(135C)	Electrical requirements
61.13(135C)	Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility)
61.14(135C)	Codes and standards

CHAPTER 62
RESIDENTIAL CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

62.1(135C)	Definitions
62.2(135C)	Application for license
62.3(135C)	Licenses for distinct parts
62.4(135C)	Variances
62.5(135C)	General requirements
62.6(135C)	Notification required by the department
62.7(135C)	Administrator
62.8(135C)	Administration
62.9(135C)	Personnel
62.10(135C)	General admission policies
62.11(135C)	Evaluation services
62.12(135C)	Programming
62.13(135C)	Crisis intervention
62.14(135C)	Discharge or transfer
62.15(135C)	Medication management
62.16(135C)	Resident property
62.17(135C)	Financial affairs
62.18(135C)	Records
62.19(135C)	Health and safety
62.20(135C)	Nutrition
62.21(135C)	Physical facilities and maintenance
62.22(135C)	Care review committee
62.23(135C)	Residents' rights in general
62.24(135C)	County care facilities
62.25(135C)	Another business or activity in a facility
62.26(135C)	Respite care services

CHAPTER 63

RESIDENTIAL CARE FACILITIES FOR THE MENTALLY RETARDED

63.1(135C)	Definitions
63.2(135C)	Variances
63.3(135C)	Application for licensure
63.4(135C)	General requirements
63.5(135C)	Notifications required by the department
63.6	Reserved
63.7(135C)	Licenses for distinct parts
63.8(135C)	Administrator
63.9(135C)	General policies
63.10	Reserved
63.11(135C)	Personnel
63.12(135C)	Resident care and personal services
63.13(135C)	Admission, transfer, and discharge
63.14(135C)	Contracts
63.15(135C)	Physical examinations
63.16(135C)	Dental services
63.17(135C)	Records
63.18(135C)	Drugs
63.19(135C)	Dietary
63.20(135C)	Orientation program
63.21(135C)	Individualized program of care
63.22(135C)	Care review committee
63.23(135C)	Safety
63.24(135C)	Housekeeping
63.25(135C)	Maintenance
63.26(135C)	Laundry
63.27(135C)	Garbage and waste disposal
63.28(135C)	Buildings, furnishings, and equipment
63.29(135C)	Family and employee accommodations
63.30(135C)	Animals
63.31(135C)	Environment and grounds
63.32(135C)	Supplies
63.33(135C)	Residents' rights in general
63.34(135C)	Involuntary discharge or transfer
63.35(135C)	Resident rights
63.36(135C)	Financial affairs—management
63.37(135C)	Resident abuse prohibited
63.38(135C)	Resident records
63.39(135C)	Dignity preserved
63.40(135C)	Resident work
63.41(135C)	Communications
63.42(135C)	Resident activities
63.43(135C)	Resident property
63.44(135C)	Family visits
63.45(135C)	Choice of physician
63.46(135C)	Incompetent resident
63.47(135C)	Specialized license for three- to five-bed facilities
63.48(135C)	County care facilities
63.49(135C)	Another business or activity in a facility
63.50(135C)	Respite care services

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

64.1	Reserved
64.2(135C)	Variances
64.3(135C)	Application for license
64.4(135C)	General requirements
64.5(135C)	Notifications required by the department
64.6(135C)	Veteran eligibility
64.7(135C)	Licenses for distinct parts
64.8 to 64.16	Reserved
64.17(135C)	Contracts
64.18(135C)	Records
64.19 to 64.32	Reserved
64.33(235B)	Separation of accused abuser and victim
64.34(135C)	Personnel histories
64.35(135C)	Care review committee
64.36(135C)	Involuntary discharge or transfer
64.37 to 64.58	Reserved
64.59(135C)	County care facilities
64.60(135C)	Federal regulations adopted—conditions of participation
64.61(135C)	Federal regulations adopted—rights
64.62(135C)	Another business or activity in a facility
64.63(135C)	Respite care services

INTERPRETIVE GUIDELINES
(FEDERAL)

CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

65.1(135C)	Definitions
65.2(135C)	Application for license
65.3(135C)	Licenses for distinct parts
65.4(135C)	Variances
65.5(135C)	General requirements
65.6(135C)	Notification required by the department
65.7(135C)	Administrator
65.8(135C)	Administration
65.9(135C)	Personnel
65.10(135C)	General admission policies
65.11(135C)	Evaluation services
65.12(135C)	Individual program plan (IPP)
65.13(135C)	Activity program
65.14(135C)	Crisis intervention
65.15(135C)	Restraint or seclusion
65.16(135C)	Discharge or transfer
65.17(135C)	Medication management
65.18(135C)	Resident property and personal affairs
65.19(135C)	Financial affairs
65.20(135C)	Records
65.21(135C)	Health and safety
65.22(135C)	Nutrition
65.23(135C)	Physical facilities and maintenance

65.24(135C)	Care review committee
65.25(135C)	Residents' rights in general
65.26(135C)	Incompetent residents
65.27(135C)	County care facilities
65.28(135C)	Violations
65.29(135C)	Another business or activity in a facility
65.30(135C)	Respite care services

CHAPTER 66 BOARDING HOMES

66.1(83GA,SF484)	Definitions
66.2(83GA,SF484)	Registration of boarding homes
66.3(83GA,SF484)	Occupancy reports
66.4(83GA,SF484)	Complaints
66.5(83GA,SF484)	Investigations
66.6(83GA,SF484)	Penalties
66.7(83GA,SF484)	Public and confidential information

CHAPTER 67 GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS, AND ADULT DAY SERVICES

67.1(231B,231C,231D)	Definitions
67.2(231B,231C,231D)	Program policies and procedures, including those for incident reports
67.3(231B,231C,231D)	Tenant rights
67.4(231B,231C,231D)	Program notification to the department
67.5(231B,231C,231D)	Medications
67.6(231B,231C,231D)	Another business or activity located in a program
67.7(231B,231C,231D)	Waiver of criteria for retention of a tenant in the program
67.8(231B,231C,231D)	All other waiver requests
67.9(231B,231C,231D)	Staffing
67.10(17A,231B,231C,231D)	Monitoring, plans of correction, and requests for reconsideration
67.11(231B,231C,231D)	Complaint and program-reported incident report investigation procedure
67.12(17A,231B,231C,231D)	Enforcement action
67.13(17A,231B,231C,231D)	Notice, hearings, and appeals
67.14(17A,231B,231C,231D)	Judicial review
67.15(17A,231C,231D)	Emergency removal of tenants
67.16(231C)	Nursing assistant work credit
67.17(231B,231C,231D)	Public or confidential information
67.18(231B,231C,231D)	Training related to Alzheimer's disease and similar forms of irreversible dementia

CHAPTER 68 ELDER GROUP HOMES

68.1(231B)	Definitions
68.2(231B)	Program certification and posting requirements
68.3(231B)	Certification—application process
68.4(231B)	Certification—application content
68.5(231B)	Initial certification process
68.6(231B)	Expiration of program certification
68.7(231B)	Recertification process
68.8(231B)	Notification of recertification
68.9(231B)	Listing of all certified programs
68.10(231B)	Transfer of certification

68.11(231B)	Cessation of program operation
68.12(231B)	Occupancy agreement
68.13(231B)	Evaluation of tenant
68.14(231B)	Criteria for admission and retention of tenants
68.15(231B)	Involuntary transfer from the program
68.16(231B)	Tenant documents
68.17(231B)	Service plans
68.18(231B)	Nurse review
68.19(231B)	Staffing
68.20(231B)	Managed risk policy and managed risk consensus agreements
68.21(231B)	Transportation
68.22(231B)	Identification of veteran's benefit eligibility
68.23(231B)	Resident advocate committees
68.24(231B)	Life safety—emergency policies and procedures and structural safety requirements
68.25(231B)	Structural standards
68.26(231B)	Landlord and tenant Act

CHAPTER 69

ASSISTED LIVING PROGRAMS

69.1(231C)	Definitions
69.2(231C)	Program certification
69.3(231C)	Certification of a nonaccredited program—application process
69.4(231C)	Nonaccredited program—application content
69.5(231C)	Initial certification process for a nonaccredited program
69.6(231C)	Expiration of the certification of a nonaccredited program
69.7(231C)	Recertification process for a nonaccredited program
69.8(231C)	Notification of recertification for a nonaccredited program
69.9(231C)	Certification or recertification of an accredited program—application process
69.10(231C)	Certification or recertification of an accredited program—application content
69.11(231C)	Initial certification process for an accredited program
69.12(231C)	Recertification process for an accredited program
69.13(231C)	Listing of all certified programs
69.14(231C)	Recognized accrediting entity
69.15(231C)	Requirements for an accredited program
69.16(231C)	Maintenance of program accreditation
69.17(231C)	Transfer of certification
69.18(231C)	Structural and life safety reviews of a building for a new program
69.19(231C)	Structural and life safety review prior to the remodeling of a building for a certified program
69.20(231C)	Cessation of program operation
69.21(231C)	Occupancy agreement
69.22(231C)	Evaluation of tenant
69.23(231C)	Criteria for admission and retention of tenants
69.24(231C)	Involuntary transfer from the program
69.25(231C)	Tenant documents
69.26(231C)	Service plans
69.27(231C)	Nurse review
69.28(231C)	Food service
69.29(231C)	Staffing
69.30(231C)	Dementia-specific education for program personnel
69.31(231C)	Managed risk policy and managed risk consensus agreements
69.32(231C)	Life safety—emergency policies and procedures and structural safety requirements

69.33(231C)	Transportation
69.34(231C)	Activities
69.35(231C)	Structural requirements
69.36(231C)	Dwelling units in dementia-specific programs
69.37(231C)	Landlord and tenant Act
69.38(83GA,SF203)	Identification of veteran's benefit eligibility

CHAPTER 70 ADULT DAY SERVICES

70.1(231D)	Definitions
70.2(231D)	Program certification
70.3(231D)	Certification of a nonaccredited program—application process
70.4(231D)	Nonaccredited program—application content
70.5(231D)	Initial certification process for a nonaccredited program
70.6(231D)	Expiration of the certification of a nonaccredited program
70.7(231D)	Recertification process for a nonaccredited program
70.8(231D)	Notification of recertification for a nonaccredited program
70.9(231D)	Certification or recertification of an accredited program—application process
70.10(231D)	Certification or recertification of an accredited program—application content
70.11(231D)	Initial certification process for an accredited program
70.12(231D)	Recertification process for an accredited program
70.13(231D)	Listing of all certified programs
70.14(231D)	Recognized accrediting entity
70.15(231D)	Requirements for an accredited program
70.16(231D)	Maintenance of program accreditation
70.17(231D)	Transfer of certification
70.18(231D)	Structural and life safety reviews of a building for a new program
70.19(231D)	Structural and life safety review prior to the remodeling of a building for a certified program
70.20(231D)	Cessation of program operation
70.21(231D)	Contractual agreement
70.22(231D)	Evaluation of participant
70.23(231D)	Criteria for admission and retention of participants
70.24(231D)	Involuntary discharge from the program
70.25(231D)	Participant documents
70.26(231D)	Service plans
70.27(231D)	Nurse review
70.28(231D)	Food service
70.29(231D)	Staffing
70.30(231D)	Dementia-specific education for program personnel
70.31(231D)	Managed risk policy and managed risk consensus agreements
70.32(231D)	Life safety—emergency policies and procedures and structural safety requirements
70.33(231D)	Transportation
70.34(231D)	Activities
70.35(231D)	Structural requirements
70.36(231D)	Identification of veteran's benefit eligibility

CHAPTER 71 OVERPAYMENT RECOVERY UNIT

71.1(10A)	Definitions
71.2(10A)	Referral process
71.3(10A)	Records

- 71.4(10A) Review
- 71.5(10A) Repayment process
- 71.6(10A) Further collection action
- 71.7(10A) Appeal rights
- 71.8(10A) Data processing systems matches
- 71.9(10A) Confidentiality

CHAPTER 72
PUBLIC ASSISTANCE
FRONT END INVESTIGATIONS

- 72.1(10A) Definitions
- 72.2(10A) Referrals
- 72.3(10A) Investigation procedures
- 72.4(10A) Findings

CHAPTER 73
MEDICAID FRAUD CONTROL BUREAU

- 73.1(10A) Definitions
- 73.2(10A) Complaints
- 73.3(10A) Investigative procedures
- 73.4(10A) Audit of clinical and fiscal records by the department
- 73.5(10A) Who shall be reviewed, audited, or investigated
- 73.6(10A) Auditing and investigative procedures
- 73.7(10A) Actions based on audit or investigative findings
- 73.8(10A) Confidentiality
- 73.9(10A) Appeal by provider of care

CHAPTER 74
ECONOMIC ASSISTANCE FRAUD BUREAU

- 74.1(10A) Definitions
- 74.2(10A) Responsibilities
- 74.3(10A) Procedures
- 74.4(10A) Investigations
- 74.5(10A) Executive branch investigations

CHAPTER 75
DIVESTITURE UNIT

PREAMBLE

- 75.1(10A) Definitions
- 75.2(10A) Referral process
- 75.3(10A) Referral review
- 75.4(10A) Investigation
- 75.5(10A) Organizing information
- 75.6(10A) Computation of debt
- 75.7(10A) Issuing notices
- 75.8(10A) Conducting informal conferences
- 75.9(10A) Failure to timely request hearing
- 75.10(10A) District court hearing
- 75.11(10A) Filing and docketing of the order
- 75.12(10A,22) Confidentiality

CHAPTERS 76 to 99
Reserved

*GAMES OF SKILL, CHANCE, BINGO
AND RAFFLES*

CHAPTER 100
ADMINISTRATION

100.1(10A,99B)	Definitions
100.2(99B)	Licensing
100.3(99B)	License requirements
100.4(99B)	Participation
100.5(99B)	Posted rules
100.6(99B)	Prizes
100.7(10A,99B)	Records
100.8(10A,99B)	Inspections
100.9(99B)	Reports
100.10(99B)	Extension of time to file quarterly report
100.11(10A,422)	State and local option sales tax
100.12(10A,17A,99B)	Appeal rights
100.13(99B)	Penalties
100.14 to 100.29	Reserved

QUALIFIED ORGANIZATION

100.30(99B)	License requirements
100.31	Reserved
100.32(99B)	Raffles
100.33(99B)	Expenses
100.34(99B)	Nature and dedication of net receipts
100.35(99B)	Extension of time to dedicate net receipts
100.36(10A,22)	Confidentiality
100.37 to 100.49	Reserved

RAFFLES CONDUCTED AT A FAIR

100.50(99B)	Raffles conducted at a fair
100.51(99B)	Raffle prizes at a fair
100.52(99B)	Exceptions for an annual raffle
100.53 to 100.79	Reserved

ANNUAL GAME NIGHT
BINGO MANUFACTURERS AND DISTRIBUTORS

100.80(99B)	Bingo manufacturers and distributors
100.81(99B)	Bingo manufacturer and distributor licenses
100.82(99B)	Bingo supplies and equipment

CHAPTER 101
AMUSEMENT CONCESSIONS

101.1(99B)	License requirements
101.2(99B)	Prizes
101.3(99B)	Conducting games
101.4(99B)	Posted rules

CHAPTER 102
SOCIAL GAMBLING

102.1(99B)	License requirements
102.2(99B)	Participation allowed
102.3(99B)	Permissible games

CHAPTER 103
BINGO

103.1(10A,99B)	Definitions
103.2(10A,99B)	License
103.3(99B)	Bingo occasion
103.4(99B)	Game of bingo
103.5(99B)	State and house rules
103.6(99B)	Prizes
103.7(10A,99B)	Workers
103.8(99B)	Expenses
103.9(99B)	Location
103.10	Reserved
103.11(10A,725)	Advertising
103.12(10A,99B)	Equipment
103.13(99B)	Records
103.14(10A,99B)	Bingo checking account
103.15(10A,99B)	Bingo savings account
103.16(10A,99B)	Reports
103.17(10A,99B)	Inspections and audits
103.18(10A,99B)	Penalties

CHAPTER 104
GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

104.1(10A,99B)	Definitions
104.2(99B)	Device restrictions
104.3(99B)	Prohibited games/devices
104.4(99B)	Prizes
104.5(99B)	Registration
104.6(99B)	Violations

CHAPTER 105
REGISTERED AMUSEMENT DEVICES

105.1(10A,99B)	Definitions
105.2(99B)	Registered amusement device restrictions
105.3(99B)	Prohibited registered amusement devices
105.4(99B)	Prizes
105.5(99B)	Registration by a manufacturer, manufacturer's representative, distributor, or an owner that operates for profit
105.6(99B)	Registration of registered amusement devices
105.7(99B)	Violations
105.8(10A,99B)	Appeal rights
105.9(10A,99B,82GA,SF510)	Procedure for denial, revocation, or suspension of a registration
105.10(99B)	Reports
105.11(99B)	Criteria for approval or denial of a registration
105.12(10A,99B)	Suspension or revocation of a registration

CHAPTER 106
CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

106.1(10A,99B)	Definitions
106.2(99B)	Licensing
106.3(99B)	Card game tournament
106.4(99B)	Required postings
106.5(99B)	Prizes and cost to participate

106.6(99B)	Restrictions
106.7(99B)	Qualified expenses limitation
106.8(99B)	Records
106.9(99B)	State and local option sales tax
106.10(99B)	Inspections
106.11(99B)	Quarterly reports
106.12(99B)	Penalties
106.13(99B)	Revocation, suspension, or denial of license

CHAPTER 107
GAME NIGHTS

107.1(10A,99B)	Definitions
107.2(99B)	Restrictions on game nights
107.3(99B)	Applications
107.4(99B)	Games
107.5(99B)	Sponsors
107.6(99B)	Reports and dedication of funds for qualified and eligible qualified organizations
107.7(422)	State and local option sales tax

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

481—52.1(235E) Definitions. For purposes of this chapter, the following definitions apply:

“Assault of a dependent adult” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

“Caretaker” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.

“Confidentiality” means the withholding of information from any manner of communication, public or private.

“Court” means the district court.

“Department” means the department of inspections and appeals.

“Dependent adult” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for the person’s own care or protection is impaired, either temporarily or permanently.

“Dependent adult abuse” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, or neglect. “Dependent adult abuse” does not include any of the following:

1. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
2. Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment or care.
3. The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 144B, 222, 229, or 633.

“Exploitation” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

“Facility” means a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1.

“Gross negligence” means an act or omission that signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences; and, in other words, means an extreme departure from the ordinary standard of care.

“Immediately,” for purposes of mandatory reporters’ reporting of suspected dependent adult abuse, means within 24 hours.

“Inspector” means a surveyor, monitor or investigator with the department or any department designee.

“Intimate relationship” means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the following nonexclusive list of factors may be considered:

1. The duration of the relationship,
2. The frequency of interaction,
3. Whether the relationship has been terminated, and
4. The nature of the relationship, characterized by either person's expectation of sexual or romantic involvement.

"Misappropriates" means taking unfair advantage of or wrongfully or dishonestly exercising control over property.

"Neglect of a dependent adult" means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health.

"Person" means person as defined in Iowa Code section 4.1.

"Physical injury" means a physical injury, or injury which is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker in similar circumstances. "Physical injury" includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.

"Program" means an elder group home as defined in Iowa Code section 231B.1, an assisted living program certified under Iowa Code section 231C.3, or an adult day services program as defined in Iowa Code section 231D.1.

"Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

"Registry" means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

"Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

"Resident" means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.

"Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. "Sexual exploitation" includes but is not limited to:

1. Kissing;
2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;
3. A sex act as defined in Iowa Code section 702.17;
4. The transmission, display or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment, care, monitoring, assessment or diagnosis or as part of an ongoing investigation.

"Sexual exploitation" does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

"Sexual offense" means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.

"Staff member" means an individual who provides direct or indirect treatment or services to residents in a facility or program. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the

definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.

“*Unreasonable confinement*” means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.

“*Unreasonable punishment*” means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

“*Willful misconduct*” means an intentional act of unreasonable character committed with disregard for a known or obvious risk that is so great as to make it highly probable that harm will follow.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for those persons.

52.2(1) Persons who must report dependent adult abuse. The following persons shall report suspected dependent adult abuse in accordance with subrule 52.2(2) below.

a. A staff member. Specifically excluded from the definition of “staff member” only for purposes of the requirements set forth in this subrule are individuals who have no contact or de minimis contact with residents in a facility or program.

b. An employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse.

52.2(2) Reporting suspected dependent adult abuse in facilities or programs.

a. If a staff member or employee is required to make a report pursuant to this rule, the staff member or employee shall immediately notify the person in charge or the person’s designated agent who shall then notify the department within 24 hours of such notification or the next business day.

b. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within 24 hours or the next business day.

c. Nothing in this subrule prevents a mandatory reporter or any other person from notifying the department directly of any suspected abuse.

d. The employer or supervisor of a person who is required to or may make a report pursuant to this rule shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

e. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

f. A report of suspected dependent adult abuse shall contain as much of the following information as the person making the report is able to furnish:

- (1) The date and time of the incident;
- (2) The name, date of birth and diagnoses of the dependent adult;
- (3) Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;
- (4) The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;
- (5) A list of the staff members working at the time of the incident, including each staff member’s full name, title, date of birth, address and telephone number;

(6) The alleged perpetrator's full name, title, date of birth, social security number, address and telephone number;

(7) Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse or helpful in providing assistance to the dependent adult; and

(8) The name, address and telephone number of the person making the report.

52.2(3) A report shall be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency shall promptly refer the report to the department.

52.2(4) A person required to report abuse who knowingly and willfully fails to do so within 24 hours may be subject to criminal penalties and civil liability as provided for by statute.

52.2(5) Interference with a person required to report.

a. It is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person for any of the following:

(1) For reporting suspected dependent adult abuse;

(2) For cooperating with or assisting the department in evaluating or investigating a case of dependent adult abuse; or

(3) For participating in judicial proceedings relating to dependent adult abuse.

b. A person or employer found in violation of this subrule is guilty of a simple misdemeanor.

52.2(6) Staff members who are employed by a facility or program on January 1, 2010, and who were not previously required to attend dependent adult abuse training shall be required to have attended the training no later than December 31, 2010.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.3(235E) Reports and registry of dependent adult abuse.

52.3(1) *Receipt and evaluation of reports.* The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to Iowa Code section 235B.5.

52.3(2) *Reports sent to the department or the department of human services.* Any person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department. The department shall transfer any reports received of dependent adult abuse in the community to the department of human services. The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department.

52.3(3) *Reports of abuse that is minor, isolated, and unlikely to reoccur.*

a. Minor, isolated, and unlikely to reoccur—first instance. A report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d) which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. Minor, isolated, and unlikely to reoccur—subsequent instance(s). A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. Retention of reports. All initial and subsequent reports are collected and maintained by the department of human services until a five-year period has expired, so long as no additional reports have been filed.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.4(235E) Financial institution employees and reporting suspected financial exploitation. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.5(235E) Evaluation of report. Upon receipt of a report as defined in rule 481—52.1(235E), the department shall conduct an intake sufficient to determine whether the allegation constitutes dependent adult abuse as defined in rule 481—52.1(235E).

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.6(235E) Separation of victim and alleged abuser. Upon receiving a claim of dependent adult abuse of a dependent adult in a facility or program, the facility or program shall separate the victim and the alleged abuser immediately and shall maintain that separation until the department's abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations.

52.7(1) *Entering and examining evidence at a facility or program.* An inspector of the department may enter any facility or program without a warrant and may examine all records and items pertaining to residents, employees, former employees, and the alleged dependent adult abuser and any other records and items necessary to ensure the integrity of the investigation unless the record or item is protected by some other legal privilege.

52.7(2) *Interviews.*

a. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse.

b. An alleged dependent adult abuser may request to have an attorney present at the alleged dependent adult abuser's expense at any time during the interview, but the request may not unreasonably delay the investigation. An employee organization representative or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met:

(1) The alleged dependent adult abuser is part of a bargaining unit or employee organization that is party to a collective bargaining agreement under Iowa Code chapter 20 or any other applicable state or federal law.

(2) The alleged dependent adult abuser requests the presence of a union representative or employee organization representative.

(3) The representative maintains the confidentiality of all information from the interview subject to the penalties provided in Iowa Code section 235B.12 if such confidentiality is breached.

(4) The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

52.7(3) *Photographs of victim, vicinity and related matters.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved. The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.

52.7(4) *Evaluating information.* An inspector shall consider the information as reported, other known or discovered information, and any information gathered as a result of the inspector's contact with collateral sources, including prior abuse allegations and disciplinary actions.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.8(235E) Notification to subsequent employers. The department shall notify a facility or program that subsequently employs an alleged or founded dependent adult abuser.
[ARC 8294B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 235E.

[Filed ARC 8294B (Notice ARC 7828B, IAB 6/3/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 10
ENHANCED 911 TELEPHONE SYSTEMS

[Prior to 4/18/90, see Public Defense[601]Ch 10]

[Prior to 5/12/93, Disaster Services Division[607]Ch 10]

605—10.1(34A) Program description. The purpose of this program is to provide for the orderly development, installation, and operation of enhanced 911 emergency telephone systems and to provide a mechanism for the funding of these systems, either in whole or in part. These systems shall be operated under governmental management and control for the public benefit. These rules shall apply to each joint E911 service board or alternative 28E entity as provided in Iowa Code chapter 34A and to each provider of enhanced 911 service.

605—10.2(34A) Definitions. As used in this chapter, unless context otherwise requires:

“*Access line*” means an exchange access line that has the ability to access dial tone and reach a public safety answering point.

“*Administrator*,” unless otherwise noted, means the administrator of the homeland security and emergency management division of the department of public defense.

“*Automatic location identification (ALI)*” means a system capability that enables an automatic display of information defining a geographical location of the telephone used to place the 911 call.

“*Automatic number identification (ANI)*” means a capability that enables the automatic display of the number of the telephone used to place the 911 call.

“*Call attendant*” means the person who initially answers a 911 call.

“*Call detail recording*” means a means of establishing chronological and operational accountability for each 911 call processed, consisting minimally of the caller’s telephone number, the date and time the 911 telephone equipment established initial connection (trunk seizure), the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line used, and the identity of the call attendant’s position, also known as an ANI printout.

“*Call relay method*” means the 911 call is answered at the PSAP, where the pertinent information is gathered, and the call attendant relays the caller’s information to the appropriate public or private safety agency for further action.

“*Call transfer method*” means the call attendant determines the appropriate responding agency and transfers the 911 caller to that agency.

“*Central office (CO)*” means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

“*Coin-free access (CFA)*” means coin-free dialing or no-coin dial tone which enables a caller to dial 911 or “0” for operator without depositing money or incurring a charge.

“*Competitive local exchange service provider*” means the same as defined in Iowa Code section 476.96.

“*Conference transfer*” means the capability of transferring a 911 call to the action agency and allowing the call attendant to monitor or participate in the call after it has been transferred to the action agency.

“*Direct dispatch method*” means 911 call answering and radio-dispatching functions, for a particular agency, are both performed at the PSAP.

“*E911 communications council*” means the council as established under the provisions of Iowa Code section 34A.15.

“*E911 program manager*” means that person appointed by the administrator of the homeland security and emergency management division, and working with the E911 communications council, to perform the duties specifically set forth in Iowa Code chapter 34A and this chapter.

“*Emergency call*” means a telephone request for service which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property and respond to other emergency situations determined by local policy.

“*Emergency 911 notification device*” means a product capable of accessing a public safety answering point through the E911 system.

“Enhanced 911 (E911)” means the general term referring to emergency telephone systems with specific electronically controlled features, such as ALI, ANI, and selective routing.

“Enhanced 911 (E911) operating authority” means the public entity, which operates an E911 telephone system for the public benefit, within a defined enhanced 911 service area.

“Enhanced 911 (E911) service area” means the geographic area to be served, or currently served under an enhanced 911 service plan, provided that any enhanced 911 service area shall at a minimum encompass one entire county. The enhanced 911 service area may encompass more than one county and need not be restricted to county boundaries. This definition applies only to wire-line enhanced 911 service.

“Enhanced 911 (E911) service plan (wire-line)” means a plan, produced by a joint E911 service board, which includes the information required by Iowa Code subsection 34A.2(7).

“Enhanced 911 service surcharge” means a charge set by the joint E911 service board, approved by local referendum, and assessed on each access line which physically terminates within the E911 service area.

“Enhanced wireless 911 service area” means the geographic area to be served, or currently served, by a PSAP under an enhanced wireless 911 service plan.

“Enhanced wireless 911 service, phase I” means an emergency wireless telephone system with specific electronically controlled features such as ANI, specific indication of wireless communications tower site location, selective routing by geographic location of the tower site.

“Enhanced wireless 911 service, phase II” means an emergency wireless telephone system with specific electronically controlled features such as ANI and ALI and selective routing by geographic location of the 911 caller.

“Exchange” means a defined geographic area served by one or more central offices in which the telephone company furnishes services.

“Implementation” means the activity between formal approval of an E911 service plan and a given system design, and commencement of operations.

“Joint E911 service board” means those entities created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code subsection 34A.3(3).

“Local exchange carrier” means the same as defined in Iowa Code section 476.96.

“Local exchange service provider” means a vendor engaged in providing telecommunications service between points within an exchange and includes, but is not limited to, a competitive local exchange service provider and a local exchange carrier.

“911 call” means any telephone call that is made by dialing the digits 911.

“911 system” means a telephone system that automatically connects a caller, dialing the digits 911, to a PSAP.

“Nonrecurring costs” means one-time charges incurred by a joint E911 service board or operating authority including, but not limited to, expenditures for E911 service plan preparation, surcharge referendum, capital outlay, installation, and initial license to use subscriber names, addresses and telephone information.

“One-button transfer” means another term for a (fixed) transfer which allows the call attendant to transfer an incoming call by pressing a single button. For example, one button would transfer voice and data to a fire agency, and another button would be used for police, also known as “selective transfer.”

“Political subdivision” means a geographic or territorial division of the state that would have the following characteristics: defined geographic area, responsibilities for certain functions of local government, public elections and public officers, and taxing power. Excluded from this definition are departments and divisions of state government and agencies of the federal government.

“Provider” means a person, company or other business that provides, or offers to provide, 911 equipment, installation, maintenance, or access services.

“Public or private safety agency” means a unit of state or local government, a special purpose district, or a private firm, which provides or has the authority to provide firefighting, police, ambulance, emergency medical services or hazardous materials response.

“*Public safety answering point (PSAP)*” means a 24-hour, state, local, or contracted communications facility, which has been designated by the local service board to receive 911 service calls and dispatch emergency response services in accordance with the E911 service plan.

“*Public switched telephone network*” means a complex of diversified channels and equipment that automatically routes communications between the calling person and called person or data equipment.

“*Recurring costs*” means repetitive charges incurred by a joint E911 service board or operating authority including, but not limited to, database management and personnel directly associated with addressing, lease of access lines, lease of equipment, network access fees, and applicable maintenance costs.

“*Selective routing (SR)*” means an enhanced 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a predesignated PSAP.

“*Subscriber*” means any person, firm, association, corporation, agencies of federal, state and local government, or other legal entity responsible by law for payment for communication service from the telephone utility.

“*Tariff*” means a document filed by a telephone company with the state telephone utility regulatory commission which lists the communication services offered by the company and gives a schedule for rates and charges.

“*Telecommunications device for the deaf (TDD)*” means any type of instrument, such as a typewriter keyboard connected to the caller’s telephone and involving special equipment at the PSAP which allows an emergency call to be made without speaking, also known as a TTY.

“*Trunk*” means a circuit used for connecting a subscriber to the public switched telephone network.

“*Wireless communications service*” means cellular, broadband PCS, and SMR which provide real-time two-way interconnected voice service, the networks of which utilize intelligent switching capability and offer seamless handoff to customers. This definition includes facilities-based service providers and non-facilities-based resellers. For purposes of wireless 911 surcharge, wireless communications service does not include services whose customers do not have access to 911, or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

“*Wireless communications surcharge*” means a surcharge of up to 65 cents imposed on each wireless communications service number provided in this state and collected as part of a wireless communications service provider’s monthly billing to a subscriber.

“*Wireless E911 phase 1*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the address of the tower that received the call to the appropriate public safety answering point.

“*Wireless E911 phase 2*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

[ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.3(34A) Joint E911 service boards. Each county board of supervisors shall establish a joint E911 service board.

10.3(1) Membership.

a. Each political subdivision of the state, having a public safety agency serving territory within the county E911 service area, is entitled to one voting membership. For the purposes of this paragraph, a township that operates a volunteer fire department providing fire protection services to the township, or a city that provides fire protection services through the operation of a volunteer fire department not financed through the operation of city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county.

b. Each private safety agency, such as privately owned ambulance services, airport security agencies, and private fire companies, serving territory within the county E911 service area, is entitled to a nonvoting membership on the board.

c. Public and private safety agencies headquartered outside but operating within a county E911 service area are entitled to membership according to their status as a public or private safety agency.

d. A political subdivision that does not operate its own public safety agency but contracts for the provision of public safety services is not entitled to membership on the joint E911 service board. However, its contractor is entitled to one voting membership according to the contractor's status as a public or private safety agency.

e. The joint E911 service board elects a chairperson and vice chairperson.

f. The joint E911 service board shall annually submit a listing of members, to include the political subdivision they represent and, if applicable, the associated 28E agreement, to the E911 program manager. A copy of the list shall be submitted within 30 days of adoption of the operating budget for the ensuing fiscal year and shall be on the prescribed form provided by the E911 program manager.

10.3(2) *Alternate 28E entity.* The joint E911 service board may organize as an Iowa Code chapter 28E agency as authorized in Iowa Code subsection 34A.3(3), provided that the 28E entity meets the voting and membership requirements of Iowa Code subsection 34A.3(1).

10.3(3) *Joint E911 service board bylaws.* Each joint E911 service board shall develop bylaws to specify, at a minimum, the following information:

- a.* The name of the joint E911 service board.
- b.* A list of voting and nonvoting members.
- c.* The date for the commencement of operations.
- d.* The mission.
- e.* The powers and duties.
- f.* The manner for financing activities and maintaining a budget.
- g.* The manner for acquiring, holding and disposing of property.
- h.* The manner for electing or appointing officers and terms of office.
- i.* The manner by which members may vote to include, if applicable, the manner by which votes may be weighted.
- j.* The manner for appointing, hiring, disciplining, and terminating employees.
- k.* The rules for conducting meetings.
- l.* The permissible method or methods to be employed in accomplishing the partial or complete termination of the board and the disposing of property upon such complete or partial termination.
- m.* Any other necessary and proper rules or procedures.

Each member shall sign the adopted bylaws.

The joint E911 service board shall record the signed bylaws with the county recorder and shall forward a copy of the signed bylaws to the E911 program administrator at the state homeland security and emergency management division.

10.3(4) *Executive board.* The joint E911 service board may, through its bylaws, establish an executive board to conduct the business of the joint E911 service board. The executive board will have such other duties and responsibilities as assigned by the joint E911 service board.

10.3(5) *Meetings.*

a. The provisions of Iowa Code chapter 21, "Official Meetings Open to the Public," are applicable to joint E911 service boards.

b. Joint E911 service boards shall conduct meetings in accordance with their established bylaws and applicable state law.

[ARC 7695B, IAB 4/8/09, effective 5/13/09; ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.4(34A) Enhanced 911 service plan (wire-line).

10.4(1) The joint E911 service board shall be responsible for developing an E911 service plan as required by Iowa Code section 34A.3 and as set forth in these rules. The plan will remain the property of the joint E911 service board. Each joint E911 service board shall coordinate planning with each contiguous joint E911 service board. A copy of the plan and any modifications and addenda shall be submitted to:

- a.* The state emergency management division.

- b.* All public and private safety agencies serving the E911 service area.
- c.* All providers affected by the E911 service plan.

10.4(2) The E911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the administrator. Each plan shall include:

- a.* The mailing address of the joint E911 service board.
- b.* A list of voting members on the joint E911 service board.
- c.* A list of nonvoting members on the joint E911 service board.
- d.* The name of the chairperson and vice chairperson of the joint E911 service board.
- e.* A geographical description of the enhanced 911 service area.
- f.* A list of all public and private safety agencies within the E911 service area.
- g.* The number of public safety answering points within the E911 service area.
- h.* Identification of the agency responsible for management and supervision of the E911 emergency telephone communication system.
- i.* A statement of estimated charges to be incurred by the joint E911 service board, including separate estimates of recurring and nonrecurring charges. These charges shall be limited to charges directly attributable to the provision of E911 service. The charges shall include the following:
 - (1) Item(s) or unit(s) of measurement, or both, and the associated tariff prices applicable in the development of the charges.
 - (2) Where tariff prices are not available, work papers showing the development of the charges by item(s)/unit(s) shall be included.
 - (3) Charges shall be justified as being attributable to the provision of E911 telephone communication service.
- j.* Information from telephone service providers detailing the current equipment operated by the provider to provide telephone service and additional central office equipment or technology upgrades, or both, necessary to implement E911 service.
- k.* The total number of telephone access lines by telephone company or companies having points of presence within the E911 service area and the number of this total that is exempt from surcharge collection as provided in rule 10.9(34A) and Iowa Code subsection 34A.7(3).
- l.* The estimated number of pay telephones within the E911 service area.
- m.* If applicable, a schedule for implementation of the plan throughout the E911 service area. A joint E911 service board may decide not to implement E911 service.
- n.* The total property valuation in the E911 service area.
- o.* Maps of the E911 service area showing:
 - (1) The jurisdictional boundaries of all law enforcement agencies serving the area.
 - (2) The jurisdictional boundaries of all firefighting districts and companies serving the area.
 - (3) The jurisdictional boundaries of all ambulance and emergency medical service providers operating in the area.
 - (4) Telephone exchange boundaries and the location of telephone company central offices, including those located outside but serving the service area.
 - (5) The location of PSAP(s) within the service area.
- p.* A block drawing for each telephone central office within the service area showing the method by which the 911 call will be delivered to the PSAP(s).

10.4(3) All plan modifications and addenda shall be filed with, reviewed, and approved by the E911 program manager.

10.4(4) The E911 program manager shall base acceptance of the plan upon compliance with the provisions of Iowa Code chapter 34A and the rules herein.

10.4(5) The E911 program manager will notify in writing, within 20 days of review, the chairperson of the joint E911 service board of the approval or disapproval of the plan.

- a.* If the plan is disapproved, the joint E911 service board will have 90 days from receipt of notice to submit revisions/addenda.
- b.* Notice for disapproved plans will contain the reasons for disapproval.

c. The E911 program manager will notify the chairperson, in writing within 20 days of review, of the approval or disapproval of the revisions.
[ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.5(34A) Referendum and surcharge (wire-line).

10.5(1) The surcharge referendum may be initiated only by the joint E911 service board and shall be conducted in accordance with the provisions of Iowa Code sections 34A.6 and 34A.6A and Iowa Administrative Code rule 721—21.810(34A). The surcharge is not a local option tax that can be presented to the voters under Iowa Code chapter 422B.

10.5(2) The following information shall be filed with the E911 program manager before the surcharge may be imposed.

a. A copy of the “Abstract of Election” (Form 156-K) from each commissioner of elections, in each county or partial county included within the E911 service area, showing passage of the referendum allowing for the imposition of a surcharge for E911 service.

b. An E911 service plan for the proposed E911 service area approved by the joint E911 service board.

c. A letter signed by the chairperson of the joint E911 service board requesting that the surcharge be imposed within the E911 service area.

10.5(3) The E911 program manager shall notify a local exchange service provider scheduled to provide exchange access E911 service within an E911 service area that implementation of an E911 service plan has been approved by the joint E911 service board, E911 program manager, and by the service area referendum, and that collection of the surcharge is to begin within 100 days. The E911 program manager shall also provide notice to all affected public safety answering points.

10.5(4) The local exchange service provider shall collect the surcharge as a part of its monthly billing to its subscribers. The surcharge shall appear as a single line item on a subscriber’s monthly billing entitled “E911 emergency telephone service surcharge.”

10.5(5) The local exchange service provider may retain 1 percent of the surcharge collected as compensation for the billing and collection of the surcharge. If the compensation is insufficient to fully recover a provider’s costs for the billing and collection of the surcharge, the deficiency shall be included in the provider’s costs for rate-making purposes to the extent it is reasonable and just under Iowa Code section 476.6.

10.5(6) The local exchange service provider shall remit collected surcharge to the joint E911 service board on a calendar-quarter basis within 20 days of the end of the quarter.

10.5(7) The joint E911 service board may request, not more than once each quarter, the following information from the local exchange service provider:

- a. The identity of the exchange from which the surcharge is collected.
- b. The number of lines to which the surcharge was applied for the quarter.
- c. The number of refusals to pay per exchange, if applicable.
- d. The number of write-offs per exchange, if applicable.
- e. The number of lines exempt per exchange.
- f. The amount retained by the local exchange service provider from the 1 percent administrative fee.

Access line counts and surcharge remittances are confidential public records as provided in Iowa Code section 34A.8.

10.5(8) Collection for a surcharge shall terminate if E911 service ceases to operate within the respective E911 service area. The E911 program manager for good cause may grant an extension.

a. The administrator shall provide 100 days’ prior written notice to the joint E911 service board or the operating authority and to the local exchange service provider(s) collecting the fee of the termination of surcharge collection.

b. Individual subscribers within the E911 service area may petition the joint E911 service board or the operating authority for a refund. Petitions shall be filed within one year of termination. Refunds may be prorated and shall be based on funds available and subscriber access lines billed.

c. At the end of one year from the date of termination, any funds not refunded and remaining in the E911 service fund and all interest accumulated shall be retained by the joint E911 service board. However, if the joint E911 service board ceases to operate any E911 service, the balance in the E911 service fund shall be payable to the state homeland security and emergency management division. Moneys received by the division shall be used only to offset the costs for the administration of the E911 program.

605—10.6(34A) Waivers, variance request, and right to appeal.

10.6(1) All requests for variances or waivers shall be submitted to the E911 program manager in writing and shall contain the following information:

- a. A description of the variance(s) or waiver(s) being requested.
- b. Supporting information setting forth the reasons the variance or waiver is necessary.
- c. A copy of the resolution or minutes of the joint E911 service board meeting which authorizes the application for a variance or waiver.
- d. The signature of the chairperson of the joint E911 service board.

10.6(2) The E911 program manager may grant a variance or waiver based upon the provisions of Iowa Code chapter 34A or other applicable state law.

10.6(3) Upon receipt of a request for a variance or waiver, the E911 program manager shall evaluate the request and schedule a review within 20 working days of receipt of the request. Review shall be informal and the petitioner may present materials, documents and testimony in support of the petitioner's request. The E911 program manager shall determine if the request meets the criteria established and shall issue a decision within 20 working days. The E911 program manager shall notify the petitioner, in writing, of the acceptance or rejection of the petition. If the petition is rejected, such notice shall include the reasons for denial.

605—10.7(34A) Enhanced wireless 911 service plan. Each joint E911 service board, the department of public safety, the E911 communications council, and wireless service providers shall cooperate with the E911 program manager in preparing an enhanced wireless 911 service plan for statewide implementation of enhanced wireless 911 phase I and phase II implementation.

10.7(1) Plan specifications. The enhanced wireless 911 service plan shall include, at a minimum, the following information:

1. Maps showing geographic area to be served by each PSAP receiving enhanced wireless 911 telephone calls.
2. A list of all public and private safety agencies within the enhanced wireless 911 service area.
3. The geographic location of each PSAP receiving enhanced wireless 911 calls and the name of the person responsible for the management of the PSAP.
4. A set of guidelines for determining eligible cost for wireless service providers, wire-line service providers, and public safety answering points.
5. A statement of estimated charges for the implementation and operation of enhanced wireless 911 phase I and phase II service, detailing the equipment operated or needed to operate enhanced wireless 911 service, including any technology upgrades necessary to provide service. Charges must be directly attributable to the implementation and operation of enhanced wireless 911 service. Charges shall be detailed showing item(s) or unit(s) of cost, or both, and include estimated charges from:
 - Wireless service providers.
 - Wire-line service providers for implementation and operation of enhanced wireless 911 service.
 - Public safety answering points.
6. A schedule for the implementation of enhanced wireless 911 phase I and phase II service.

10.7(2) Adoption by reference. The "Wireless Enhanced 911 Implementation and Operation Plan," effective February 1, 2000, and available from the Homeland Security and Emergency Management Division, 7105 NW 70th Avenue, Camp Dodge, Bldg. W-4, Johnston, Iowa, or at the Law Library in the Capitol Building, Des Moines, Iowa, is hereby adopted by reference with the following changes effective May 8, 2002: Section F, provide further clarification of eligible costs for public safety answering points

and the Iowa department of public safety; Section G, provide further specification on the surplus payment process for local E911 service boards and the Iowa department of public safety; Attachment A, ensure that the application for surplus payments contains the language contained in Section G. Additional changes effective August 16, 2004: Sections A, D, E, I, J, K, and service area maps, update to reflect changes in the Code of Iowa and to represent the actual 911 operating conditions with the state; Sections F and G, provide further clarification of eligible costs and the payment of those costs.

[ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.8(34A) E911 surcharge (wireless).

10.8(1) The E911 program manager shall adopt a monthly surcharge of up to 65 cents to be imposed on each wireless communications service number provided in this state. The amount of wireless surcharge to be collected may be adjusted once yearly, but in no case shall the surcharge exceed 65 cents per month, per customer service number.

10.8(2) The amount of wireless surcharge to be collected during a fiscal year shall be determined by the administrator's best estimation of enhanced wireless 911 costs for the ensuing fiscal year. The E911 program manager shall base the estimated cost on information provided by the E911 communications council, wireless service providers, vendors, public safety agencies, joint E911 service boards and any other appropriate parties or agencies involved in the provision or operation of enhanced wireless 911 service. The E911 communications council shall also provide a recommended monthly wireless surcharge for the ensuing fiscal year.

10.8(3) The E911 program manager shall order the imposition of surcharge uniformly on a statewide basis and simultaneously on all wireless communications service numbers by giving at least 100 days' prior notice to wireless carriers to impose a monthly surcharge as part of their periodic billings. The 100-day notice to wireless carriers shall also apply when making an adjustment in the wireless surcharge rate.

10.8(4) The wireless surcharge shall be 65 cents per month, per customer service number until changed by rule.

10.8(5) The wireless service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless service, this surcharge shall be collected under one of two methods:

a. The wireless service provider shall collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge; or

b. The wireless service provider shall divide the total earned prepaid wireless telephone revenue received by the wireless service provider within the calendar month and divide by 50 dollars, and multiply the quotient by the surcharge.

The surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. If the wireless service provider receives a partial payment of a monthly bill, the payment shall first be applied to the amount owed the wireless carrier with the remainder being applied to the surcharge. The wireless carrier shall bill and collect for a full month's surcharge in cases of a partial month's service. The wireless carrier is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing. The wireless E911 surcharge is not subject to sales or use tax.

10.8(6) Remaining surcharge funds shall be remitted on a calendar-quarter basis within 20 days following the end of the quarter with a remittance form as prescribed by the E911 program manager. Providers shall issue their checks or warrants to the Treasurer, State of Iowa, and remit to the E911 Program Manager, Homeland Security and Emergency Management Division, 7105 NW 70th Avenue, Camp Dodge, Bldg. W-4, Johnston, Iowa 50131.

[ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.9(34A) Wireless E911 emergency communications fund.

10.9(1) Wireless E911 surcharge money, collected and remitted by wireless service providers, shall be placed in a fund within the state treasury under the control of the administrator.

10.9(2) Iowa Code section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this subrule. However, moneys in the fund may be combined with other moneys in the state treasury for purposes of investment.

10.9(3) Moneys in the fund shall be expended and distributed in the order and manner as follows:

a. An amount as appropriated by the general assembly to the homeland security and emergency management division for implementation, support, and maintenance of the functions of the E911 program and to employ the auditor of the state to perform an annual audit of the wireless E911 emergency communications fund.

b. The program manager shall allocate 21 percent of the total amount of surcharge generated per calendar quarter to wireless carriers to recover their costs to deliver wireless E911 phase 1 services as defined in the Federal Communications Commission docket 94-102 and further defined in their letter to King County, Washington, dated May 7, 2001. If this allocation is insufficient to reimburse all wireless carriers for the wireless service provider's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of the provider's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

c. The program manager shall reimburse local exchange service providers on a calendar quarter basis for their expenses for transport costs between the wireless E911 selective router and the public safety answering points related to the delivery of wireless E911 service.

d. The program manager shall reimburse local exchange service providers and third-party E911 automatic location information (ALI) database providers on a calendar quarter basis for the costs of maintaining and upgrading the E911 components and functionalities between the input and output points of the wireless E911 selective router. This includes the wireless E911 selective router and the automatic location information (ALI) database.

e. The program manager shall apply an amount up to \$500,000 per calendar quarter to any outstanding wireless E911 phase 1 obligations incurred pursuant to this chapter prior to July 1, 2004.

f. The program manager shall allocate an amount up to \$159,000 per calendar quarter equally to the joint E911 service boards and the department of public safety that have submitted a written request to the program manager. The written request shall be made with the "Request for Wireless E911 Funds" form contained in the "State of Iowa Wireless E911 Implementation and Operation Plan." The request is due to the program manager on May 15, or the next business day, of each year. A minimum of \$1,000 per calendar quarter shall be allocated for each public safety answering point with the E911 service area of the department of public safety or joint E911 service board.

Upon retirement of the outstanding obligations referred to in 10.9(3) "e," the amount allocated under 10.9(3) "f" shall be 25 percent of the total amount of surcharge generated per calendar quarter. The minimum amount allocated to the department of public safety and the joint E911 service boards shall be \$1,000 per PSAP operated by the respective authority. Additional funds shall be allocated as follows:

(1) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the E911 service area to the total square miles in the state.

(2) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls answered at the public safety answering point in the E911 service area to the total of wireless E911 calls originating in the state.

g. If moneys remain after all obligations under subrule 10.9(3), paragraphs "a" to "f," as listed above, have been fully paid, the remainder may be accumulated as a carryover operating surplus. These moneys shall be used to fund future wireless phase 2 network improvements and public safety answering point improvements. These moneys may also be used for wireless service provider's transport costs related to wireless E911 phase 2 services, if those costs are not otherwise recovered by the wireless

service provider's customer billing or other sources and are approved by the program manager. Any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

10.9(4) Payments to wireless service providers and local exchange service providers shall be made quarterly, based on original, itemized claims or invoices presented within 20 days of the end of the calendar quarter. Payments to wireless service providers shall be made in accordance with these rules and the State of Iowa Accounting Policies and Procedures.

10.9(5) Wireless service providers and local exchange service providers shall be reimbursed for only those items and services that are defined as eligible in the enhanced wireless 911 service plan and when initiation of service has been ordered and authorized by the E911 program manager.

10.9(6) If it is found that an overpayment has been made to an entity, the E911 program manager shall attempt recovery of the debt from the entity by certified letter. Due diligence shall be documented and retained at the state homeland security and emergency management division. If resolution of the debt does not occur and the debt is at least \$50, the state homeland security and emergency management division will then utilize the income offset program through the department of revenue. Until resolution of the debt has occurred, the state homeland security and emergency management division may withhold future payments to the entity.

605—10.10(34A) E911 surcharge exemptions. The following agencies, individuals, and organizations are exempt from imposition of the E911 surcharge:

1. Federal agencies and tax-exempt instrumentalities of the federal government.
2. Indian tribes for access lines on the tribe's reservation upon filing a statement with the joint E911 service board, signed by appropriate authority, requesting surcharge exemption.
3. An enrolled member of an Indian tribe for access lines on the reservation, who does not receive E911 service, and who annually files a signed statement with the joint E911 service board that the person is an enrolled member of an Indian tribe living on a reservation and does not receive E911 service. However, once E911 service is provided, the member is no longer exempt.
4. Official station testing lines owned by the provider.
5. Individual wire-line subscribers to the extent that they shall not be required to pay on a single periodic billing the surcharge on more than 100 access lines, or their equivalent, in an E911 service area.

All other subscribers not listed above, that have or will have the ability to access 911, are required to pay the surcharge, if imposed by the official order of the E911 program manager.

605—10.11(34A) E911 service fund.

10.11(1) The department of public safety and each joint E911 service board have the responsibility for the E911 service fund.

a. An E911 service fund shall be established in the office of the county treasurer for each joint E911 service board and with the state treasurer for the department of public safety.

b. Collected surcharge moneys and any interest thereon, as authorized in Iowa Code chapter 34A, shall be deposited into the E911 service fund. E911 surcharge moneys must be kept separate from all other sources of revenue utilized for E911 systems.

c. For joint E911 service boards, withdrawal of moneys from the E911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or vice chairperson of the joint E911 service board or the appropriate operating authority so designated in writing.

d. For the department of public safety, withdrawal of moneys from the E911 service fund shall be made in accordance with state laws and administrative rules.

10.11(2) The E911 service funds shall be subject to examination by the division at any time during usual business hours. E911 service funds are subject to the audit provisions of Iowa Code chapter 11. A copy of all audits of the E911 service fund shall be furnished to the division within 30 days of receipt. If through the audit or monitoring process the division determines that a joint E911 service board is not adhering to an approved plan or does not have a valid board membership, or if the division determines

that a joint E911 service board or the department of public safety is not using funds in the manner prescribed in these rules or Iowa Code chapter 34A, the administrator may, after notice and hearing, suspend surcharge imposition and order termination of expenditures from the E911 service fund. The joint E911 service board or department of public safety is not eligible to receive or expend surcharge moneys until such time as the E911 program manager determines that the board or department is in compliance with the approved plan, board membership, and fund usage limitations.

[ARC 8314B, IAB 11/18/09, effective 12/23/09]

605—10.12(34A) Operating budgets.

10.12(1) Each joint E911 service board and the department of public safety shall provide a copy, to the E911 program manager, within 30 days of adoption, of the operating budget for the ensuing fiscal year for the fund as established under subrule 10.11(1).

10.12(2) The E911 program manager shall, upon review of the operating budget, make necessary adjustments to the surcharge as provided in Iowa Code chapter 34A.

605—10.13(34A) Limitations on use of funds. Surcharge moneys in the E911 service fund may be used to pay recurring and nonrecurring costs including, but not limited to, network equipment, software, database, addressing, initial training, and other start-up, capital, and ongoing expenditures. E911 surcharge moneys shall be used only to pay costs directly attributable to the provision of E911 telephone systems and services and may include costs for portable and vehicle radios, communication towers and associated equipment, and other radios and equipment permanently located inside the public safety answering point. Funds allocated under paragraph 10.9(3)“f” shall be used for communication equipment located inside the public safety answering point for the implementation and maintenance of wireless E911 phase 2 service.

605—10.14(34A) Minimum operational and technical standards.

10.14(1) Each E911 system, supplemented with E911 surcharge moneys, shall, at a minimum, employ the following features:

- a. ALI (automatic location identification).
- b. ANI (automatic number identification).
- c. Ability to selectively route.
- d. Each PSAP shall provide two emergency seven-digit numbers arranged in rollover configuration for use by telephone company operators for transferring a calling party to the PSAP.
- e. ANI and ALI information shall be maintained and updated in such a manner as to allow for 95 percent or greater degree of accuracy.

10.14(2) E911 public safety answering points shall adhere to the following minimum standards:

- a. The PSAP shall operate 7 days per week, 24 hours per day, with operators on duty at all times.
- b. The primary published emergency number in the E911 service area shall be 911.
- c. All PSAPs will maintain interagency communications capabilities for emergency coordination purposes, to include radio as well as land line direct or dial line.
- d. Each PSAP shall develop and maintain a PSAP standard operating procedure for receiving and dispatching emergency calls.
- e. The date and time of each 911 emergency call shall be documented using an automated call detail recording device or other communications center log. Such logs shall be maintained for a period of not less than one year.
- f. If a call transfer method of handling 911 calls is employed, a 99 percent degree of reliability of transferred calls from a PSAP to responding agencies shall be maintained. All transferred calls shall employ, to the closest extent possible, conference transfer capabilities which provide that the call be announced and monitored by the PSAP operator to ensure that the call has been properly transferred.
- g. PSAPs not employing the transfer method of handling 911 emergency calls shall use the call relay method. Information shall be exchanged between the PSAP receiving the call and an appropriate emergency response agency or dispatch center having jurisdiction in the area of the emergency. In no

case during an emergency 911 call shall the caller be referred to another telephone number and required to hang up and redial. The call relay method shall also prevail in circumstances where emergency calls enter the 911 system (whether by design or by happenstance) from outside the E911 service area.

h. Access control and security of PSAPs and associated dispatch centers shall be designed to prevent disruption of operations and provide a safe and secure environment of communication operations.

i. PSAP supervision shall ensure that all telephone company employees, whose normal activities may involve contact with facilities associated with the 911 service, are familiar with safeguarding of facilities' procedures.

j. Emergency electrical power shall be provided for the PSAP environment that will ensure continuous operations and communications during a power outage. Such power should start automatically in the event of power failure and shall have the ability to be sustained for a minimum of 48 hours.

k. The PSAP shall make every attempt to disallow the intrusion by automatic dialers, alarm systems, or automatic dialing and announcing devices on a 911 trunk. If intrusion by one of these devices should occur, those responsible for PSAP operations shall make every attempt to contact the responsible party to ensure there is no such further occurrence by notifying the party that knowing and intentional interference with emergency telephone calls constitutes a crime under Iowa Code section 727.5. Those responsible for PSAP operations shall report persons who repeatedly use automatic dialers, alarm systems, or automatic announcing devices on 911 trunk lines to the county attorney for investigation of possible violations of section 727.5.

l. Each PSAP shall be equipped with an appropriate telecommunications device for the deaf (TDD) in accordance with 28 CFR Part 35.162, July 26, 1991.

10.14(3) Service providers shall adhere to the following minimum requirements:

a. The PSAP shall be notified of service interruptions in accordance with the provisions of Iowa Administrative Code 199—paragraph 22.6(3)“c.”

b. All service providers shall submit separate itemized bills to the E911 program manager, the department of public safety, a joint E911 service board or PSAP operating authority, as appropriate.

c. The service provider shall respond, within a reasonable length of time, to all appropriate requests for information from the administrator, the department of public safety, a joint E911 service board or operating authority and shall expressly comply with the provisions of Iowa Code section 34A.8.

10.14(4) Voluntary standards. Current technical and operational standards applying to E911 systems and services can be found in the “American Society for Testing and Materials Standard Guide for Planning and Developing 911 Enhanced Telephone Systems” and in publications issued by the National Emergency Number Association. Master street address guides are encouraged to be developed and maintained by using National Emergency Number Association technical standards 02-010 and 02-011. Standards contained in these documents shall be considered as guidance, and adherence thereto shall be voluntary. Notwithstanding the minimum standards published in these rules, it is intended that E911 telephone service providers and joint E911 service boards and operating authorities employ the best and most affordable technologies and methods available in providing E911 services to the public.

605—10.15(34A) Administrative hearings and appeals.

10.15(1) E911 program manager decisions regarding the acceptance or refusal of an E911 service plan, in whole or in part, the implementation of E911 and the imposition of the E911 surcharge within a specific E911 service area may be contested by an affected party.

10.15(2) Request for a hearing shall be made in writing to the state homeland security and emergency management division chief of staff within 30 days of the E911 program manager's mailing or serving a decision and shall state the reason(s) for the request and shall be signed by the appropriate authority.

10.15(3) The chief of staff shall schedule a hearing within 10 working days of receipt of the request for hearing. The chief of staff shall preside over the hearing, at which time the appellant may present any evidence, documentation, or other information regarding the matter in dispute.

10.15(4) The chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(5) Any party adversely affected by the chief of staff's ruling may file a written request for a rehearing within 20 days of issuance of the ruling. A rehearing will be conducted only when additional evidence is available, the evidence is material to the case, and good cause existed for the failure to present the evidence at the initial hearing. The chief of staff will schedule a hearing within 20 days after the receipt of the written request. The chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(6) Any party adversely affected by the chief of staff's ruling may file a written appeal to the administrator of the homeland security and emergency management division. The appeal request shall contain information identifying the appealing party, the ruling being appealed, specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief. The administrator shall issue a ruling regarding the matter within 90 days of the hearing. The administrator's ruling constitutes final agency action for purposes of judicial review.

[ARC 7695B, IAB 4/8/09, effective 5/13/09]

605—10.16(34A) Confidentiality. All financial or operations information provided by a wireless service provider to the E911 program manager shall be identified by the provider as confidential trade secrets under Iowa Code section 22.7(3) and shall be kept confidential as provided under Iowa Code section 22.7(3) and Iowa Administrative Code 605—Chapter 5. Such information shall include numbers of accounts, numbers of customers, revenues, expenses, and the amounts collected from said wireless service provider for deposit in the fund. Notwithstanding such requirements, aggregate amounts and information may be included in reports issued by the administrator if the aggregated information does not reveal any information attributable to an individual wireless service provider.

These rules are intended to implement Iowa Code chapter 34A.

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¹ Effective date of 8/2/89 delayed 70 days by the Administrative Rules Review Committee at its July 11, 1989, meeting.

PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

CHAPTER 1 THE DEPARTMENT

- | | |
|----------|---|
| 1.1(17A) | Establishment of the department of public safety |
| 1.2(17A) | Organization |
| 1.3(17A) | Offices |
| 1.4(17A) | Methods by which and location where the public may obtain information or make submissions or requests |
| 1.5 | Reserved |
| 1.6(17A) | Legal advice |
| 1.7(17A) | Surety companies |
| 1.8(17A) | Construction of rules |

CHAPTER 2 Reserved

CHAPTER 3 SHERIFF'S UNIFORMS

- | | |
|---------------|--------------------|
| 3.1(17A,331) | General provisions |
| 3.2(17A,331) | Trousers |
| 3.3(17A,331) | Shirts |
| 3.4(17A,331) | Hats |
| 3.5(17A,331) | Ties |
| 3.6(17A,331) | Raingear |
| 3.7(17A,331) | Shoes and boots |
| 3.8(17A,331) | Gloves |
| 3.9(17A,331) | Jackets |
| 3.10(17A,331) | Accessories |

CHAPTERS 4 and 5 Reserved

CHAPTER 6 VEHICLE IMPOUNDMENT

- | | |
|--------------|--|
| 6.1(17A,321) | Vehicle impoundment |
| 6.2(17A,321) | Vehicles which may be impounded immediately |
| 6.3(17A,321) | Vehicles which need not be impounded immediately |
| 6.4(17A,321) | Impoundment procedure |
| 6.5(17A,321) | Abandoned vehicles |
| 6.6(321) | Scope |

CHAPTER 7 Reserved

CHAPTER 8 CRIMINAL JUSTICE INFORMATION

- | | |
|--------------|----------|
| 8.1 to 8.100 | Reserved |
|--------------|----------|

DIVISION I IOWA ON-LINE WARRANTS AND ARTICLES SYSTEM

- | | |
|---------------|---|
| 8.101(80,692) | Iowa on-line warrants and articles (IOWA) criminal justice information system |
| 8.102(80,692) | Information available through the IOWA system |

- 8.103(80) Human immunodeficiency virus-related information
- 8.104(80,692) IOWA system security
- 8.105(80,692) Subpoenas and court orders

CHAPTER 9

Reserved

CHAPTER 10

PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY

- 10.1(17A) Definitions
- 10.2 to 10.100 Reserved

DECLARATORY ORDERS

- 10.101(17A) Petition for declaratory order
- 10.102(17A) Notice of petition
- 10.103(17A) Intervention
- 10.104(17A) Briefs
- 10.105(17A) Inquiries
- 10.106(17A) Service and filing of petitions and other papers
- 10.107(17A) Consideration
- 10.108(17A) Action on petition
- 10.109(17A) Refusal to issue order
- 10.110(17A) Contents of declaratory order—effective date
- 10.111(17A) Copies of orders
- 10.112(17A) Effect of a declaratory order
- 10.113 to 10.200 Reserved

AGENCY PROCEDURE FOR RULE MAKING

- 10.201(17A) Applicability
- 10.202(17A) Advice on possible rules before notice of proposed rule adoption
- 10.203(17A) Public rule-making docket
- 10.204(17A) Notice of proposed rule making
- 10.205(17A) Public participation
- 10.206(17A) Regulatory analysis
- 10.207(17A,25B) Fiscal impact statement
- 10.208(17A) Time and manner of rule adoption
- 10.209(17A) Variance between adopted rule and published notice of proposed rule adoption
- 10.210(17A) Exemptions from public rule-making procedures
- 10.211(17A) Concise statement of reasons
- 10.212(17A) Contents, style, and form of rule
- 10.213(17A) Agency rule-making record
- 10.214(17A) Filing of rules
- 10.215(17A) Effectiveness of rules prior to publication
- 10.216(17A) General statements of policy
- 10.217(17A) Review by department of rules
- 10.218(17A) Petition for rule making
- 10.219(17A) Briefs
- 10.220(17A) Inquiries
- 10.221(17A) Agency consideration
- 10.222(17A) Waivers of rules
- 10.223 to 10.300 Reserved

CONTESTED CASES

10.301(17A)	Scope and applicability
10.302(17A)	Definitions
10.303(17A)	Time requirements
10.304(17A)	Requests for contested case proceeding
10.305(17A)	Notice of hearing
10.306(17A)	Presiding officer
10.307(17A)	Waiver of procedures
10.308(17A)	Telephone proceedings
10.309(17A)	Disqualification
10.310(17A)	Consolidation—severance
10.311(17A)	Pleadings
10.312(17A)	Service and filing of pleadings and other papers
10.313(17A)	Discovery
10.314(17A)	Subpoenas
10.315(17A)	Motions
10.316(17A)	Prehearing conference
10.317(17A)	Continuances
10.318(17A)	Withdrawals
10.319(17A)	Intervention
10.320(17A)	Hearing procedures
10.321(17A)	Evidence
10.322(17A)	Default
10.323(17A)	Ex parte communication
10.324(17A)	Recording costs
10.325(17A)	Interlocutory appeals
10.326(17A)	Final decision
10.327(17A)	Appeals and review
10.328(17A)	Applications for rehearing
10.329(17A)	Stays of agency actions
10.330(17A)	No factual dispute contested cases
10.331(17A)	Emergency adjudicative proceedings
10.332(17A)	Burden of proof

CHAPTER 11

IDENTIFICATION SECTION OF THE DIVISION OF CRIMINAL INVESTIGATION

11.1(17A,690,692)	Identification section
11.2(17A,690,692)	Definitions
11.3(690,692)	Release of information
11.4(690,692)	Right of review
11.5(690,692)	Review of record
11.6(17A,690,692)	Inaccuracies in criminal history
11.7(17A,690,692)	Fingerprint files and crime reports
11.8(690)	Taking of fingerprints
11.9(17A,690,692)	Arresting agency portion of final disposition form
11.10(690,692)	Final disposition form
11.11	Reserved
11.12(692)	Release of information to the public
11.13	Reserved
11.14(692)	Scope of record checks for non-criminal justice agencies and individuals
11.15(692)	Fees
11.16	Reserved

- 11.17(17A,22,692) Requests for criminal history data
- 11.18(690) Administrative sanctions
- 11.19(232) Juvenile fingerprints and criminal histories
- 11.20(135C) Release of dependent adult abuse records
- 11.21(692) Criminal history checks for qualified entities

CHAPTER 12

Reserved

CHAPTER 13

SPECIAL RAILWAY AGENTS

- 13.1(17A,80) Appointment of railway special agents
- 13.2(17A,80) Standards
- 13.3(17A,80) Training requirements
- 13.4(17A,80) Letter of request
- 13.5(17A,80) Application form
- 13.6(17A,80) Photographs
- 13.7(17A,80) Vision classification
- 13.8(17A,80) Surety bond
- 13.9(17A,80) Background investigation
- 13.10(17A,80) Weapons permit
- 13.11(17A,80) Renewal of permit
- 13.12(17A,80) Weapons training
- 13.13(17A,80) Review of application
- 13.14(17A,80) Identification card
- 13.15(17A,80) Notification
- 13.16(17A,80) Notice of termination of employment

CHAPTER 14

Reserved

CHAPTER 15

LAW ENFORCEMENT ADMINISTRATOR'S TELECOMMUNICATIONS

ADVISORY COMMITTEE (LEATAC)

- 15.1(693) Establishment of committee
- 15.2(693) Membership of committee
- 15.3(693) Terms of appointment
- 15.4(693) Officers
- 15.5(693) Bylaws
- 15.6(693) Duties

CHAPTER 16

STATE BUILDING CODE—FACTORY-BUILT STRUCTURES

- 16.1 to 16.609 Reserved

PART 1—MODULAR FACTORY-BUILT STRUCTURES

- 16.610(103A) "Modular factory-built structures"
- 16.611 to 16.619 Reserved

PART 2—MANUFACTURED HOUSING

- 16.620(103A) Manufactured home construction
- 16.621(103A) Installation of manufactured homes
- 16.622 Reserved
- 16.623(103A) Installation seal and certificate procedures for manufactured homes
- 16.624 to 16.626 Reserved

- 16.627(103A) Approval of existing manufactured home tie-down systems
- 16.628(103A) Procedure for governmental subdivisions for installation of factory-built structures
- 16.629(103A) Support and anchoring systems submission

CHAPTER 17

Reserved

CHAPTER 18

PARKING FOR PERSONS WITH DISABILITIES

- 18.1(321L) Scope
- 18.2(321L) Location
- 18.3(321L) Dimensions
- 18.4(321L) Access aisles and loading zones
- 18.5(321L) Designation
- 18.6(321L) Numbers of parking spaces for persons with disabilities required in off-street parking facilities
- 18.7(321L) Persons with disabilities parking at residential facilities
- 18.8(321L) On-street parking

CHAPTER 19

Reserved

CHAPTER 20

GOVERNOR'S TRAFFIC SAFETY BUREAU

- 20.1(23USC402,ExecOrd23) Authority
- 20.2(23USC402,ExecOrd23) Purpose
- 20.3(23USC402,ExecOrd23) Responsibilities
- 20.4(23USC402,ExecOrd23) Funding criteria
- 20.5(23USC402,ExecOrd23) Program requirements

CHAPTERS 21 to 27

Reserved

CHAPTER 28

MARIJUANA ERADICATION PROCEDURES

- 28.1(80) Reports of marijuana
- 28.2(80) Cultivated marijuana
- 28.3(80) Uncultivated marijuana
- 28.4(80) Scope and limitation

CHAPTERS 29 to 34

Reserved

CHAPTER 35

COMPLAINTS AGAINST EMPLOYEES

- 35.1(80) Definitions
- 35.2(80) Filing a complaint
- 35.3(80) Notification to complainant

CHAPTERS 36 to 40

Reserved

CHAPTER 41

PAYMENT OF SMALL CLAIMS TO EMPLOYEES

41.1(17A,80) Authorization to reimburse

CHAPTERS 42 to 50

Reserved

CHAPTER 51

FLAMMABLE AND COMBUSTIBLE LIQUIDS

51.1(101) Definitions
 51.2 to 51.149 Reserved
 51.150(101) Production, storage, and handling of liquefied natural gas

CHAPTER 52

Reserved

CHAPTER 53

FIRE SERVICE TRAINING BUREAU

53.1(78GA,HF2492) Fire service training bureau
 53.2(78GA,HF2492) Programs, services, and fees

CHAPTERS 54 to 60

Reserved

CHAPTER 61

REDUCED IGNITION PROPENSITY CIGARETTES

61.1(101B) Definitions
 61.2(101B) Restriction on sale of cigarettes
 61.3(101B) Test method, performance standard, test report
 61.4(101B) Alternate test method
 61.5(101B) Acceptance of alternate test method approved by another state
 61.6(101B) Retention of reports of testing
 61.7(101B) Testing performed or sponsored by the department
 61.8 and 61.9 Reserved
 61.10(101B) Certification and fee
 61.11(101B) Changes to the manufacture of a certified reduced ignition propensity cigarette
 61.12(101B) Notification of certification
 61.13(101B) Marking reduced ignition propensity cigarette packaging
 61.14 to 61.19 Reserved
 61.20(101B) Applicability—preemption
 61.21(17A) Violations and penalties

CHAPTERS 62 to 79

Reserved

CHAPTER 80

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

80.1(17A,22) Definition
 80.2(17A,22) Statement of policy
 80.3(17A,22) Requests for access to records
 80.4(17A,22) Procedures for access to confidential records
 80.5(17A,22) Requests for treatment of a record as a confidential record
 80.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record

80.7(17A,22)	Consent to disclosure by the subject of a confidential record
80.8	Reserved
80.9(17A,22)	Disclosures without the consent of the subject
80.10(17A,22)	Routine use
80.11(17A,22)	Records retention manual
80.12(17A,22)	Data processing system
80.13(22)	Confidential records
80.14(252J)	Release of confidential licensing information for child support recovery purposes
80.15(22,80F)	Release of official photographs of employees

CHAPTER 81

CRIMINAL INTELLIGENCE INFORMATION

81.1(692)	Definitions
81.2(692)	Iowa law enforcement intelligence network (LEIN) information system
81.3(692)	Criminal intelligence file security
81.4(692)	Review of criminal intelligence files—purging
81.5(692)	Subpoenas and court orders

CHAPTER 82

Reserved

CHAPTER 83

IOWA SEX OFFENDER REGISTRY

83.1(692A)	Sex offender registry established
83.2(692A)	Definitions
83.3(692A)	Forms and procedures
83.4(692A)	Availability of records
83.5(692A)	Expungement of records

CHAPTERS 84 to 88

Reserved

CHAPTER 89

MISSING PERSONS

89.1 to 89.99	Reserved
---------------	----------

DIVISION I

MISSING PERSON INFORMATION CLEARINGHOUSE

89.100(694)	Missing person information clearinghouse
89.101(694)	Administration of missing person information clearinghouse
89.102(694)	Definitions
89.103(694)	Program information
89.104(694)	Prevention and education programs and materials
89.105(694)	Release of information
89.106(694)	Dissemination
89.107(694)	Training
89.108 to 89.199	Reserved

DIVISION II

AMBER ALERT PROGRAM

89.200(694)	AMBER alert program
89.201(694)	Criteria
89.202(694)	Activation procedures
89.203(694)	Alternative alert if criteria are not satisfied

CHAPTER 90

Reserved

CHAPTER 91

WEAPONS PERMITS

91.1(724)	Definitions
91.2(724)	Forms
91.3(724)	Training programs
91.4(724)	Application procedures for a permit to carry a weapon
91.5(724)	Firearm purchase or transfer—permit to acquire pistols or revolvers
91.6(724)	Reports and remittance to the state
91.7(724)	Offensive weapons as collector's items—method of classification

CHAPTERS 92 to 94

Reserved

CHAPTER 95

DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

95.1(809,809A)	Definitions
95.2(809,809A)	Ammunition and firearms
95.3(809,809A)	Firearms inventory
95.4(809,809A)	Deposit of firearms in the firearms reference file
95.5(809,809A)	Disposition of firearms (interstate)
95.6(809A)	Transfer of rifles and shotguns to the department of natural resources
95.7(809,809A)	Disposition of firearms (intrastate)
95.8(809,809A)	Final disposition and destruction of firearms
95.9(809,809A)	Claims
95.10(809,809A)	Disposition of explosives
95.11(809,809A)	Disposition of weapons other than firearms and explosives

CHAPTERS 96 to 120

Reserved

CHAPTER 121

BAIL ENFORCEMENT, PRIVATE INVESTIGATION, AND
PRIVATE SECURITY BUSINESSES

121.1(80A)	Licensing
121.2(80A)	Definitions
121.3(80A)	Persons exempt
121.4(80A)	Licenses
121.5(80A)	License requirements
121.6(80A)	Identification cards
121.7(80A)	License and background investigation fees
121.8(80A)	Display of license
121.9(80A)	Duplicate license
121.10(80A)	License renewal
121.11(80A)	Employee identification cards
121.12(80A)	Badges, uniforms, insignia, patches and hats
121.13(80A)	Advertisement, cards, letterhead and the like
121.14(80A)	Misleading statements
121.15(80A)	Reports
121.16(80A)	Denial, cancellation, suspension, or revocation of a license or identification card
121.17(80A)	Licensee's duty regarding employees

121.18(80A)	Campus weapon requirements
121.19(80A)	Professional permit to carry weapons
121.20(80A)	Appeals
121.21(252J)	Child support collection procedures
121.22(80A)	Continuing education requirements
121.23(80A)	Reciprocity
121.24(80A)	Replacement license

CHAPTERS 122 to 140
Reserved

CHAPTER 141
CLOSED CIRCUIT SURVEILLANCE SYSTEMS

141.1(99F)	Definitions
141.2 and 141.3	Reserved
141.4(99F)	Closed circuit surveillance system
141.5(99F)	Required equipment
141.6(99F)	Required surveillance
141.7(99F)	Equipment in DCI offices
141.8(99F)	Camera lenses
141.9(99F)	Lighting
141.10(99F)	Surveillance room
141.11(99F)	Nongambling hours
141.12(99F)	Waivers from requirements

CHAPTERS 142 to 149
Reserved

CHAPTER 150
DIVISION OF CRIMINAL INVESTIGATION CRIMINALISTICS LABORATORY

150.1(691)	Criminalistics laboratory
150.2(691)	Purpose and scope of work
150.3(691)	Laboratory capabilities
150.4(691)	Evidence submission to the laboratory
150.5(17A,691)	Distribution of reports
150.6(17A,691)	Disposition of evidence

CHAPTERS 151 to 155
Reserved

CHAPTER 156
DNA DATABASE

156.1(81GA,HF619)	Establishment of DNA database
156.2(81GA,HF619)	Definitions
156.3(81GA,HF619)	Administration of DNA database
156.4(81GA,HF619)	Collection of DNA samples
156.5(81GA,HF619)	Submission of DNA samples
156.6(81GA,HF619)	Analysis of DNA samples
156.7(81GA,HF619)	Identification of DNA samples
156.8(81GA,HF619)	Storage of DNA samples
156.9(81GA,HF619)	Disposition of DNA samples
156.10(81GA,HF619)	Expungement of DNA samples

CHAPTER 157

DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

- 157.1(321J) Approval of devices and methods to test for alcohol or drug concentration
- 157.2(321J) Evidentiary breath testing
- 157.3(321J) Urine collection
- 157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory
- 157.5(321J) Preliminary breath screening test
- 157.6(123) Chemical test—alcohol concentration—public intoxication
- 157.7(321J) Detection of drugs other than alcohol

CHAPTER 158

IGNITION INTERLOCK DEVICES

- 158.1(321J) Scope and authority
- 158.2(321J) Definitions
- 158.3(321J) Approval
- 158.4(321J) Revocation of approval
- 158.5(321J) Modifications to an approved IID
- 158.6(321J) Mandatory operational features
- 158.7(321J) IID security
- 158.8(321J) IID maintenance and reports
- 158.9(321J) Other provisions

CHAPTERS 159 to 173

Reserved

CHAPTER 174

RETAIL SALES OF PSEUDOEPHEDRINE

- 174.1(81GA,SF169) Electronic logbooks
- 174.2(81GA,SF169) Reporting of civil penalties

CHAPTERS 175 to 199

Reserved

CHAPTER 200

FIRE MARSHAL ADMINISTRATION

- 200.1(100) Description
- 200.2(100) General administrative procedures
- 200.3(100) Building plan approval and plan review fees
- 200.4(100,101,101A) Inspections and inspection fees
- 200.5(100) Certificates for licensure
- 200.6(100) Fire investigations
- 200.7(100) Fire drills
- 200.8(100) Inspection based on complaint
- 200.9(100A) Sharing of insurance company information with the fire marshal
- 200.10(100A) Release of information to an insurance company
- 200.11(100A) Forms

CHAPTER 201

GENERAL FIRE SAFETY REQUIREMENTS

- 201.1(100) Scope
- 201.2(100) General provisions
- 201.3(100) Electrical installations
- 201.4(100) Existing buildings or structures
- 201.5(100) Recognition of local fire ordinances and enforcement

CHAPTER 202
REQUIREMENTS FOR SPECIFIC OCCUPANCIES

- 202.1(100) Scope
 202.2(237) Facilities in which foster care is provided by agencies to fewer than six children
 202.3(137C) Bed and breakfast inns
 202.4 Reserved
 202.5(100,135C) General requirements for small group homes (specialized licensed facilities)
 licensed pursuant to Iowa Code section 135C.2

CHAPTERS 203 and 204
Reserved

CHAPTER 205
FIRE SAFETY REQUIREMENTS FOR HOSPITALS AND
HEALTH CARE FACILITIES

- 205.1(100) Definitions
 205.2 to 205.4 Reserved
 205.5(100) Hospitals
 205.6 to 205.9 Reserved
 205.10(100) Nursing facilities and hospices
 205.11 to 205.14 Reserved
 205.15(100) Intermediate care facilities for the mentally retarded and intermediate care facilities
 for persons with mental illness
 205.16 to 205.19 Reserved
 205.20(100) Ambulatory health care facilities
 205.21 to 205.24 Reserved
 205.25(100) Religious nonmedical health care institutions

CHAPTERS 206 to 209
Reserved

CHAPTER 210
SMOKE DETECTORS

- 210.1(100) Definitions
 210.2(100) General requirements
 210.3(100) Smoke detectors—notice and certification of installation
 210.4(100) Smoke detectors—new and existing construction

CHAPTERS 211 to 220
Reserved

CHAPTER 221
FLAMMABLE AND COMBUSTIBLE LIQUIDS

- 221.1(101) Scope
 221.2(101) Definitions
 221.3(101) Flammable and combustible liquids
 221.4(101) Motor fuel dispensing facilities and repair garages
 221.5(101) Aircraft fueling
 221.6(101) Helicopter fueling
 221.7(101) Fuel-fired appliances
 221.8(101) Stationary combustion engines and gas turbines

CHAPTERS 222 and 223
Reserved

CHAPTER 224

ABOVEGROUND PETROLEUM STORAGE TANKS

224.1(101)	Scope
224.2(101)	Definition
224.3(101)	Compliance
224.4(101)	Registration of existing and new tanks—fees
224.5(101)	Approval of plans
224.6(101)	Inspections and orders
224.7(101)	Leaks, spills, or damage
224.8(101)	Civil penalty
224.9(17A,101)	Appeals

CHAPTER 225

Reserved

CHAPTER 226

LIQUEFIED PETROLEUM GAS

226.1(101)	General requirements
226.2(101)	Transfer into container
226.3(101)	Prohibition of certain refrigerants
226.4(101)	Qualifications of personnel
226.5(101)	Pressure testing
226.6(101)	Damages—reporting

CHAPTERS 227 to 230

Reserved

CHAPTER 231

MANUFACTURING, STORAGE, HANDLING, AND
USE OF EXPLOSIVE MATERIALS

231.1(101A)	Explosive materials
-------------	---------------------

CHAPTERS 232 to 234

Reserved

CHAPTER 235

COMMERCIAL EXPLOSIVE LICENSING

235.1(101A)	Licensing program established
235.2(101A)	Licenses required
235.3(101A)	License application process
235.4(101A)	Issuance of commercial explosive business license
235.5(101A)	Issuance of individual blaster license
235.6(101A)	Inventory and records
235.7(101A,252J)	Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals
235.8(101A,252J)	Child support collection procedures
235.9(101A,272D)	Suspension or revocation for nonpayment of debts owed state or local government

CHAPTERS 236 to 250

Reserved

CHAPTER 251

FIRE FIGHTER TRAINING AND CERTIFICATION

- 251.1(100B) Definitions
- 251.2 to 251.100 Reserved

MINIMUM TRAINING STANDARDS

- 251.101(100B) Minimum training standard
- 251.102(100B) Other training
- 251.103(100B) Continuing training
- 251.104(100B) Record keeping
- 251.105 to 251.200 Reserved

FIRE FIGHTER CERTIFICATION

- 251.201(100B) Fire fighter certification program
- 251.202(100B) Certification standards
- 251.203(100B) Fees
- 251.204(100B) Certification, denial, and revocation of certification

CHAPTERS 252 to 258

Reserved

CHAPTER 259

FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS

- 259.1 to 259.100 Reserved

DIVISION I

VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND

- 259.101(17A,77GA,ch1222) Establishment of fund
- 259.102(17A,77GA,ch1222) Allocations
- 259.103(17A,77GA,ch1222) Awards to private providers of training
- 259.104(100B) Paul Ryan memorial fire fighter safety training fund
- 259.105(80GA,ch1175) Volunteer fire fighter preparedness fund
- 259.106 to 259.200 Reserved

DIVISION II

FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND

- 259.201(80GA,ch177) Fire fighting equipment revolving loan fund
- 259.202(80GA,ch177) Purpose and scope
- 259.203(80GA,ch177) Definitions
- 259.204(80GA,ch177) Application process
- 259.205(80GA,ch177) Allowable acquisitions
- 259.206(80GA,ch177) Eligibility requirements and restrictions
- 259.207(80GA,ch177) Loan origination fee and repayment schedule
- 259.208 to 259.300 Reserved

DIVISION III

REGIONAL TRAINING FACILITY FUNDS

- 259.301(100B) Regional training center program
- 259.302(100B) Definitions
- 259.303(100B) Availability of funds
- 259.304(100B) Application process
- 259.305(100B) Processing of submitted applications

CHAPTERS 260 to 274

Reserved

CHAPTER 275

CERTIFICATION OF AUTOMATIC FIRE EXTINGUISHING SYSTEM CONTRACTORS

- 275.1(100C) Establishment of program
- 275.2(100C) Definitions
- 275.3(100C) Responsible managing employee
- 275.4(100C) Certification requirements
- 275.5(100C) Application and fees
- 275.6(100C) Complaints
- 275.7(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals

CHAPTER 276

Reserved

CHAPTER 277

CERTIFICATION OF ALARM SYSTEM CONTRACTORS AND INSTALLERS

- 277.1(100C) Establishment of program
- 277.2(100C) Definitions
- 277.3(100C) Responsible managing employee
- 277.4(100C) Contractor certification requirements
- 277.5(100C) Contractor application and fees
- 277.6(100C) Installer certification requirements
- 277.7(100C) Installer application and fees
- 277.8(100C) Complaints
- 277.9(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals

CHAPTERS 278 to 290

Reserved

CHAPTER 291

VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS

- 291.1(100B) Volunteer emergency services provider death benefit program
- 291.2(100B) Eligibility
- 291.3(100B) Determination

CHAPTERS 292 to 299

Reserved

CHAPTER 300

STATE BUILDING CODE—ADMINISTRATION

- 300.1(103A) State building code promulgated
- 300.2(103A) Building code commissioner
- 300.3(103A) Building code advisory council
- 300.4(103A) Plan reviews
- 300.5(103A) Inspections
- 300.6(103A) Local code enforcement

CHAPTER 301

STATE BUILDING CODE—GENERAL PROVISIONS

- 301.1(103A) Scope and applicability
- 301.2(103A) Definitions
- 301.3(103A) General provisions
- 301.4(103A) Mechanical requirements
- 301.5(103A) Electrical requirements
- 301.6(103A) Plumbing requirements

- 301.7(103A) Existing buildings
- 301.8(103A) Residential construction requirements
- 301.9(103A) Fuel gas piping requirements
- 301.10(103A) Transition period

CHAPTER 302

STATE BUILDING CODE—ACCESSIBILITY OF BUILDINGS AND
FACILITIES AVAILABLE TO THE PUBLIC

- 302.1(103A,104A) Purpose and scope
- 302.2(103A,104A) Definitions
- 302.3(103A,104A) Plan review procedures
- 302.4(103A,104A) Site development
- 302.5(103A,104A) Building elements and spaces accessible to the physically handicapped
- 302.6(103A,104A) Restaurants and cafeterias
- 302.7(103A,104A) Medical care facilities
- 302.8(103A,104A) Business and mercantile facilities
- 302.9(103A,104A) Libraries
- 302.10(103A,104A) Transient lodging facilities
- 302.11(103A,104A) Transportation facilities
- 302.12 to 302.19 Reserved
- 302.20(103A,104A) Making apartments accessible and functional for persons with disabilities

CHAPTER 303

STATE BUILDING CODE—REQUIREMENTS FOR
ENERGY CONSERVATION IN CONSTRUCTION

- 303.1(103A) Scope and applicability of energy conservation requirements
- 303.2(103A) Residential energy code
- 303.3(103A) Adoption of nonresidential energy code
- 303.4(470) Life cycle cost analysis
- 303.5(103A) Energy review fee

CHAPTERS 304 to 309

Reserved

CHAPTER 310

SUSTAINABLE DESIGN STANDARDS

- 310.1(103A) Scope and purpose
- 310.2(103A) Definitions
- 310.3(103A) Submission of projects
- 310.4(103A) Sustainable design criteria for residential projects
- 310.5(103A) Sustainable design criteria for commercial projects
- 310.6(103A) Fees

CHAPTERS 311 to 321

Reserved

CHAPTER 322

STATE BUILDING CODE —
MANUFACTURED HOUSING SUPPORT AND ANCHORAGE SYSTEMS

- 322.1 Reserved
- 322.2(103A) Definitions
- 322.3 to 322.10 Reserved
- 322.11(103A) Support and anchorage of manufactured homes
- 322.12(103A) Suspension of installation requirements in proclaimed disaster emergencies

322.13 to 322.19 Reserved
 322.20(103A) Fees

CHAPTER 323

TEMPORARY EMERGENCY USE OF FACTORY-BUILT STRUCTURES—COMMERCIAL USE

323.1(103A) Temporary factory-built structures for commercial use

CHAPTERS 324 to 349

Reserved

CHAPTER 350

STATE HISTORIC BUILDING CODE

350.1(103A) Scope and definition

CHAPTERS 351 to 371

Reserved

CHAPTER 372

MANUFACTURED OR MOBILE HOME RETAILERS, MANUFACTURERS, AND DISTRIBUTORS

372.1(103A) Definitions
 372.2(103A) Criteria for obtaining a manufactured or mobile home retailer's license
 372.3(103A) Operation under distinct name
 372.4(103A) Supplemental statements
 372.5(103A) Denial, suspension, or revocation—civil penalties
 372.6(103A,321) Sale or transfer of manufactured or mobile homes
 372.7(103A) Right of inspection
 372.8(103A) Criteria for obtaining a manufactured or mobile home manufacturer's or distributor's license
 372.9(17A,103A) Waivers

CHAPTER 373

Reserved

CHAPTER 374

MANUFACTURED HOUSING INSTALLER CERTIFICATION

374.1(103A) Certification program
 374.2(103A) Certified installer required
 374.3(103A) Requirements for installer certification
 374.4(103A) Certification fee
 374.5(103A) Certification period
 374.6(103A) Review of application for certification
 374.7(103A) Certification renewal and continuing education
 374.8(103A) Suspension or revocation of certification
 374.9(103A) Civil penalties
 374.10(103A) Inspections
 374.11(103A) Temporary certification during proclaimed disaster emergencies

CHAPTERS 375 to 399

Reserved

CHAPTER 400
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—GOVERNANCE AND ADMINISTRATION

400.1(97A)	Establishment of system
400.2(97A)	Definitions
400.3(97A)	Governance
400.4(97A)	Meetings of board of trustees
400.5(97A)	Administrative support
400.6(97A)	Forms and information
400.7(97A)	Annual statements
400.8(97A)	Books of account
400.9(97A)	Investments
400.10(97A)	Medical board

CHAPTER 401
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—ADMINISTRATIVE PROCEDURES

401.1(97A)	Applications
401.2(97A)	Determination on initial review
401.3 to 401.100	Reserved

PROCEDURE FOR RULE MAKING

401.101(17A)	Applicability
401.102(17A)	Advice on possible rules before notice of proposed rule adoption
401.103(17A)	Public rule-making docket
401.104(17A)	Notice of proposed rule making
401.105(17A)	Public participation
401.106(17A)	Regulatory analysis
401.107(17A,25B)	Fiscal impact statement
401.108(17A)	Time and manner of rule adoption
401.109(17A)	Variance between adopted rule and published notice of proposed rule adoption
401.110(17A)	Concise statement of reasons
401.111(17A,97A)	Agency rule-making record
401.112(17A,97A)	Petitions for rule making
401.113(17A,97A)	Waivers of rules
401.114 to 401.200	Reserved

DECLARATORY ORDERS

401.201(17A)	Petition for declaratory order
401.202(17A)	Notice of petition
401.203(17A)	Intervention
401.204(17A)	Briefs
401.205(17A)	Inquiries
401.206(17A)	Service and filing of petitions and other papers
401.207(17A)	Consideration
401.208(17A)	Action on petition
401.209(17A)	Refusal to issue order
401.210(17A)	Contents of declaratory order—effective date
401.211(17A)	Copies of orders
401.212(17A)	Effect of a declaratory order
401.213 to 401.300	Reserved

CONTESTED CASES

401.301(17A)	Contested case proceeding
401.302(17A)	Discovery
401.303(17A)	Subpoenas in a contested case
401.304(17A)	Motions
401.305(17A)	Settlements
401.306(17A)	Prehearing conference
401.307(17A)	Continuances
401.308(17A)	Withdrawals
401.309(17A)	Hearing procedures
401.310(17A)	Evidence
401.311(17A)	Ex parte communication
401.312(17A)	Decisions
401.313(17A)	No factual dispute contested cases
401.314(17A)	Applications for rehearing

CHAPTER 402

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
ELIGIBILITY, BENEFITS, AND PAYMENTS

402.1 to 402.99 Reserved

DIVISION I
ELIGIBILITY

402.100(97A)	Age of qualification
402.101(97A)	Date of retirement
402.102(97A)	Application of Iowa Code Supplement section 97A.6, subsection 12
402.103(97A)	Date of death
402.104(97A)	Age of spouse
402.105 to 402.199	Reserved

DIVISION II
BENEFITS AND PAYMENTS

402.200(97A)	Computation of average final compensation
402.201(97A)	Workers' compensation—effect on benefit payment
402.202(97A)	Errors in payments
402.203(97A)	Initial benefit for a child
402.204(97A)	Computation for partial month
402.205(97A)	One year of service
402.206(97A)	Termination prior to retirement
402.207(97A)	Optional retirement benefits
402.208(97A)	Options not reversible once payments begin—exceptions
402.209(97A)	Method of calculating annual adjustments when optional retirement benefits are selected
402.210(97A)	Termination of benefits when optional retirement benefits are selected
402.211(97A)	Impact of optional benefit selections on child benefits
402.212 to 402.299	Reserved

DIVISION III
SERVICE PURCHASES

402.300(97A)	Purchase of eligible service credit
402.301(97A)	Determination of eligible service
402.302(97A)	Determination of cost to member
402.303(97A)	Application process
402.304(97A)	Service adjustment irrevocable

- 402.305(97A) Board review
- 402.306(97A) Other provisions

CHAPTER 403

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
LINE-OF-DUTY DEATH BENEFIT

- 403.1(97A) Member death benefit program
- 403.2(97A) Application
- 403.3(97A) Determination

CHAPTER 404

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
TEMPORARY INCAPACITY

- 404.1(97A) Temporary incapacity defined
- 404.2(97A) Application for temporary incapacity status
- 404.3(97A) Processing applications for temporary incapacity status
- 404.4(97A) Actions by the board
- 404.5(97A) Sick leave
- 404.6(97A) Recurrences
- 404.7(97A) Review
- 404.8(97A) Discontinuance of temporary incapacity status
- 404.9(97A) Appeals

CHAPTERS 405 to 499

Reserved

CHAPTER 500

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ORGANIZATION AND ADMINISTRATION

- 500.1(82GA,ch197) Establishment of program
- 500.2(82GA,ch197) Definitions

CHAPTER 501

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ADMINISTRATIVE PROCEDURES

- 501.1(82GA,ch197) Board meetings and agenda
- 501.2 to 501.4 Reserved
- 501.5(17A) Waivers

CHAPTER 502

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING
REQUIREMENTS, PROCEDURES, AND FEES

- 502.1(82GA,ch197) License categories and licenses required
- 502.2(82GA,ch197) License requirements
- 502.3(82GA,ch197) License terms and fees
- 502.4(82GA,ch197) Disqualifications for licensure
- 502.5(82GA,ch197) License application
- 502.6(82GA,ch197) Restriction of use of class B licenses by political subdivisions
- 502.7(82GA,ch197) Financial responsibility

CHAPTER 503
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
COMPLAINTS AND DISCIPLINE

- 503.1(82GA,ch197) Complaints
- 503.2(82GA,ch197) Discipline
- 503.3(82GA,ch197) Action against an unlicensed person
- 503.4(82GA,ch197) Appeals
- 503.5(252J,82GA,ch197) Suspension or revocation for nonpayment of child support

CHAPTER 504
STANDARDS FOR ELECTRICAL WORK

- 504.1(103) Installation requirements

CHAPTERS 505 to 549
Reserved

CHAPTER 550
ELECTRICAL INSPECTION PROGRAM—ORGANIZATION AND ADMINISTRATION

- 550.1(103) Electrical inspection program
- 550.2(103) Communications
- 550.3(103) Organization
- 550.4(103) Qualifications of inspectors
- 550.5(103) Fees

CHAPTER 551
ELECTRICAL INSPECTION PROGRAM—DEFINITIONS

- 551.1(103) Applicability
- 551.2(103) Definitions

CHAPTER 552
ELECTRICAL INSPECTION PROGRAM—PERMITS AND INSPECTIONS

- 552.1(103) Required permits and inspections
- 552.2(103) Request for inspection
- 552.3(103) Scheduling of inspections
- 552.4(103) Report of inspection
- 552.5(103) Appeals

CHAPTER 553
CIVIL PENALTIES

- 553.1(103) Civil penalty—when applicable
- 553.2(103) Civil penalty—notice
- 553.3(103) Civil penalty—appeal

CHAPTERS 554 to 558
Reserved

CHAPTER 559
ELECTRICAL INSPECTION PROGRAM—UTILITY NOTIFICATIONS
AND RESPONSIBILITIES OF UTILITIES

- 559.1(103) Notification of utility

CHAPTER 4
WEAPONS

[Appeared as rules 2.300 to 2.305 prior to 6/27/79]
[Rules 4.1, 4.2, 4.4 and 4.7 as appeared prior to 6/27/79 rescinded, 4.3 renumbered as
11.1 to 11.7, 4.5 renumbered as 12.1 to 12.11, 4.6 renumbered as 13.1 to 13.16]
[Prior to 4/20/88, see Public Safety Department, 680—Ch 4]

DIVISION I
WEAPONS PERMITS

Rescinded IAB 5/9/07, effective 7/1/07; see 661—Chapter 91.

DIVISION II
DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

Rescinded IAB 5/9/07, effective 7/1/07; see 661—Chapter 95.

CHAPTER 5
FIRE MARSHAL ADMINISTRATION

[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department[680] Ch 5]

Rescinded IAB 11/18/09, effective 1/1/10

CHAPTERS 175 to 199
Reserved

CHAPTER 200
FIRE MARSHAL ADMINISTRATION

[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]

[Prior to 4/20/88, Public Safety Department [680] Ch 5]

[Prior to 11/18/09, see 661—Ch 5]

661—200.1(100) Description. The fire marshal division is created within the department of public safety. The division headquarters is located in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The main telephone number for the division is (515)725-6145. The general E-mail address for the division is fminfo@dps.state.ia.us.

200.1(1) The director of the division is the state fire marshal, who is appointed by and reports to the commissioner of public safety. There is an assistant fire marshal, appointed by the fire marshal, who also serves as chief of the arson and explosives bureau. The assistant fire marshal may act in place of the state fire marshal if the state fire marshal position is vacant or the state fire marshal is absent or unavailable.

200.1(2) The division includes the following four bureaus:

- a. Arson and explosives bureau.
- b. Fire prevention bureau.
- c. Fire service training bureau.
- d. Building code bureau.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.2(100) General administrative procedures. The provisions of 661—Chapter 10 are adopted by reference with the following amendments:

1. Wherever the term “department of public safety” appears, delete the term and replace it with “state fire marshal.”

2. Wherever the term “commissioner of public safety” appears, delete the term and replace it with “state fire marshal.”

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.3(100) Building plan approval and plan review fees. Plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings require the approval of the fire marshal and shall be submitted to the building code bureau.

200.3(1) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau, unless the plans have been submitted to a local fire or building department for approval based upon compliance with the rules of the fire marshal or a local fire ordinance recognized in rule 661—201.4(100):

- a. Any educational building or facility serving kindergarten through twelfth grade,
- b. Any college or university building or facility,
- c. Any child care facility intended to serve seven or more children at one time,
- d. Any correctional facility,
- e. Any gaming facility,
- f. Any facility housing an adult day service,
- g. Any assisted living facility,
- h. Any residential care facility, or
- i. Any elder group home.

200.3(2) Plans for initial construction or alterations, changes, additions, renovations or remodeling of any building or facility subject to the provisions of 661—Chapter 205 shall be submitted to the building code bureau.

200.3(3) Building plan submittals.

a. *Working plans and specifications.* When approval of building construction projects is required by this chapter or when requested by the submitter for other building construction projects covered by this chapter, one complete set of the final working plans and specifications shall be submitted to the building code bureau. The submittal shall comply with Iowa Code chapters 542B and 544A and with 661—subrule 300.4(1). Each submittal shall be examined, and the submitter shall be notified of the

findings. If the working plans and specifications comply with this chapter, an approval letter shall be sent to the submitter.

b. Shop drawings. Shop drawings, equipment specifications and supporting documentation for fire alarm and sprinkler systems shall be submitted for review and approval. If the system is being installed as part of a project which has been designed by an engineer or architect, the submittal shall be approved by the responsible architect or engineer prior to submittal to the fire marshal. Each submittal shall be examined, and the submitter shall be notified of the findings. Only one copy of shop drawings, equipment specifications and supporting documentation is required. Staff of the building code bureau shall send a letter of approval to the submitter in lieu of returning approved shop drawings.

c. Changes. No changes shall be made to the approved final working plans and specifications or shop drawings unless the changes are submitted to and approved by the building code bureau.

200.3(4) If the blueprints and specifications are not acceptable, the building code bureau shall notify the submitter of the deficiencies and request that the submitter either forward changes or request a review of the blueprints and specifications with the building code bureau.

200.3(5) If, after such review, the submitter disputes the findings of the plan reviewer, the submitter may request that the disputed questions be reviewed by the building code commissioner and the chief of the fire prevention bureau.

200.3(6) If the submitter disputes the findings of the building code commissioner and the chief of the fire prevention bureau, the submitter may appeal to the fire marshal under the provisions of rule 661—200.2(100).

200.3(7) 661—subrule 300.4(2), paragraphs “b” and “c,” are adopted by reference.

NOTE: 661—subrule 300.4(2) establishes fees for plan reviews.

200.3(8) The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the state fire marshal or the state fire marshal’s designee.

200.3(9) A construction project that is subject to a provision of this chapter or 661—Chapter 201 that requires compliance with a provision of the 2009 edition of any code published by the International Code Council may comply with either the current requirements of this chapter and 661—Chapter 201 or the provisions of this chapter and 661—Chapter 201 as they applied prior to January 1, 2010, if construction has commenced on or prior to March 31, 2010. “Commenced” means the submitter has received preliminary approval of the plans. If a construction project receives preliminary approval based upon the provisions of this chapter and 661—Chapter 201 as they applied prior to January 1, 2010, then final approval must be received on or prior to September 30, 2010.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.4(100,101,101A) Inspections and inspection fees. Certain buildings, facilities, and installations as designated in the Iowa Code are required to comply with the Iowa Code and rules of the fire marshal. The fire marshal determines and enforces such compliance. To do so, the fire marshal or any employee of the fire marshal or local fire department authorized by the fire marshal may enter such building or premises at any time without notice to inspect it.

200.4(1) An inspection may be of a particular system in the building, facility, or installation, or the inspection may include the entire building, facility, or installation.

200.4(2) An inspection to evaluate compliance with the rules of the fire marshal shall be conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant is a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the rules of the fire marshal and determine if such system or systems are in

compliance with such requirements. If a consultant who is not employed by the fire marshal is engaged to conduct an inspection, the consultant shall be accompanied by an employee of the fire marshal or of a local fire department while conducting the inspection.

200.4(3) Inspections shall be conducted without announcement and occur on a random basis, upon request, in response to a complaint or to investigate a suspected fire hazard.

200.4(4) An employee of the fire marshal or an employee of a local fire department acting on behalf of the fire marshal, upon arriving at a building, facility, or installation in order to conduct an inspection, shall advise the owner or the person in control of the building, if that person is available. If a person in such a position cannot be contacted, the inspection shall commence in any event. If the owner or the owner's representative wishes to accompany the employee during the inspection, the owner or the owner's representative may do so, provided that the inspection is not delayed.

200.4(5) Upon completion of an inspection, the employee or consultant may complete a written inspection order if any violations or deficiencies are discovered. The order shall be signed by the employee and, if prepared by a consultant, shall also be signed by the consultant.

200.4(6) Upon completion of the inspection, if the building, facility, or installation does not comply with applicable laws or rules, the employee or consultant shall identify specific provisions with which the building, facility, or installation does not comply and shall notify the owner. The owner may be ordered to correct or repair the deficiency. The owner may order the building, facility, or installation removed or demolished, in lieu of correcting the deficiency.

a. Copies of the notice of deficiencies or order shall be distributed to the fire marshal's office and the fire department having jurisdiction. The employee or consultant signing the order shall retain a copy.

b. The time allowed to comply with the order shall be determined by the employee or consultant, who shall consider the likelihood that a fire may occur, the possibility of personal injury or property loss, the cost and availability of materials and labor to correct, repair, remove or demolish, and other relevant information.

c. If the owner of the building, facility, or installation does not agree with the deficiency findings and order, the owner may appeal the order to the fire marshal under rule 661—200.2(100).

200.4(7) Inspection fees. The following fees shall apply respectively to inspections of the facilities of the types listed where a certificate of inspection from the fire marshal is required in order to obtain licensure or certification under Iowa law. The inspection fee shall be paid by check made payable to the Fire Marshal Division, Iowa Department of Public Safety. If a certificate of occupancy is required for use of the building, facility, or installation, the certificate shall not be issued until the inspection fee has been paid.

a. The inspection fee for a health care facility licensed or seeking licensure pursuant to Iowa Code chapter 135C or a group home licensed or seeking licensure in this state is \$2.50 per bed.

b. The inspection fee for an elder group home certified or seeking certification pursuant to Iowa Code chapter 231B or an assisted living facility licensed or seeking licensure pursuant to Iowa Code chapter 231C is \$10 per bed.

c. The inspection fee for an adult day services program certified or seeking certification pursuant to Iowa Code chapter 231D is \$75 per facility.

d. The inspection fee for a child care facility licensed or seeking licensure pursuant to Iowa Code chapter 237A is \$25 per facility.

e. When an initial inspection which requires a fee pursuant to paragraphs "a," "b," or "c" of this subrule results in a finding of a deficiency or deficiencies which require a reinspection, the initial reinspection shall be performed without the imposition of any additional fee. If the original deficiency or deficiencies have not been corrected at the time of the initial reinspection, then a fee of \$125 for each additional reinspection after the initial reinspection is required until the original deficiency or deficiencies have been corrected.

f. The fee for a suitability inspection of a prospective site for a building, facility, or installation which may seek licensure or certification from the state of Iowa is \$150.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.5(100) Certificates for licensure. Several Iowa statutes provide that a license to conduct certain functions may not be issued until the fire marshal has approved the building, facility, or installation to be used for such function. Upon completion of an inspection showing the building, facility, or installation to be in compliance with applicable rules of the fire marshal, the owner or the owner's agent may request the issuance of a certificate of occupancy specifying that the building, facility, or installation is approved for the specific use requiring licensure. Upon receipt of the request, provided that the building, facility, or installation is found to be in compliance with applicable rules of the fire marshal and all applicable fees have been paid, the fire marshal shall issue such a certificate. If the building, facility, or installation is found not to be in compliance, the person requesting the certificate may file a petition requesting a review, and the same procedure is used as if an order were being appealed. Upon completion of the appeal process, if the building, facility, or installation is found to be in compliance, a certificate will then be issued.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.6(100) Fire investigations.

200.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

a. The fire marshal may initiate an investigation of any fire at the discretion of the fire marshal.

b. Any local fire or law enforcement official may request the fire marshal to investigate any fire.

Such investigation shall be undertaken at the discretion of the fire marshal.

200.6(2) Local fire officials have the primary responsibility to and shall investigate fires. A local fire official who investigates a fire shall file a report of each fire investigated with the fire marshal division within one week of the fire even if the fire marshal division participated in, assisted with, directed or supervised the fire investigation. Upon written request, the fire marshal may grant an extension of the time for filing this report for a period not to exceed 14 days. The request shall set forth compelling reasons for such extension.

200.6(3) A local fire official who investigates a fire shall immediately report a fire that involves death or suspected arson and shall do so by contacting the member of the fire marshal division assigned to that area or, if that member is not available, another member of the fire marshal division. If direct contact with the fire marshal division is impractical, the local fire official may request the county sheriff to relay the information to the fire marshal division via Iowa state patrol communications.

200.6(4) The notice of a fire involving death or arson shall contain the following information, if known:

a. The date, time, and address of the fire;

b. If death has occurred or is suspected, the name, age and address of the person or persons deceased or missing;

c. The suspected cause of the fire;

d. If arson is suspected, the reasons for suspecting arson, whether there is obvious evidence of arson, and if there is an arson suspect; and

e. Whether an explosion occurred.

200.6(5) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may direct, conduct, or assist in the investigation of a fire and may arrange for the participation of a consultant in the investigation.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.7(100) Fire drills. All public and private school officials and teachers shall conduct fire drills in all school buildings as specified in Iowa Code section 100.31 when school is in session. All doors and exits of their respective rooms and buildings shall remain unlocked during school hours or when such areas are being used by the public at other times.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.8(100) Inspection based on complaint.

200.8(1) Request for inspection. A person requesting the inspection of a building, facility, or installation that is alleged to require repair, removal or demolition because it presents a significant fire hazard shall provide the following information, if known:

- a. The address of the building, facility, or installation;
- b. The name and address of the building's, facility's, or installation's owner;
- c. The requester's name, address and telephone number; and
- d. A general description of the alleged deficiencies for which the requester seeks remedy.

200.8(2) Initial determination. The fire marshal, upon receipt of the information, shall make an initial determination whether there are sufficient allegations to warrant an inspection.

a. If, in the fire marshal's opinion, the complaint fails to warrant an inspection, the fire marshal shall so advise the complainant.

b. If the fire marshal determines that an inspection is warranted, the fire marshal shall so advise the county attorney, the requester and the person(s) identified as the owner(s).

200.8(3) Cause to be inspected. After initial determination, the fire marshal shall cause the inspection of the building, facility, or installation to determine if:

a. By want of proper repair, or by reason of age and dilapidated condition, the building, facility, or installation is especially liable to fire and is so situated as to endanger other buildings, facilities, installations, property or persons, or

b. The building, facility, or installation contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

200.8(4) Final decision. Upon completion of the inspection, the fire marshal shall decide if the building, facility, or installation needs to be removed or repaired.

a. If the building, facility, or installation complies with applicable laws or rules and no deficiencies are found, the fire marshal shall accordingly notify the county attorney, the owner and the requester.

b. If any deficiencies are found, and the building, facility, or installation is within the corporate limits of a city, the fire marshal shall notify the mayor and clerk of said city of the deficiencies and the need for repairs or removal.

c. If any deficiencies are found, and the building, facility, or installation is outside the corporate limits of any city, the fire marshal shall specifically identify such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building, facility, or installation. Such notice and order shall be sent to the county attorney with a request that the notice and order be examined by the county attorney.

NOTE: An owner who receives an order from the fire marshal may appeal the order using procedures established in rule 661—200.2(100).

200.8(5) Verification of legal description. The county attorney shall, upon receipt of the fire marshal's notice and order, verify the legal description and identification of the property owner and shall advise the fire marshal how to properly serve the order.

200.8(6) Contents of order. The order shall notify the owner of the building, facility, or installation that the order becomes effective upon its receipt or issuance. The order shall also notify the owner that, within five days after the order's effective date, the owner may file a petition for review of the order in accordance with Iowa Code section 100.14.

200.8(7) Who shall be served. If the county attorney deems it appropriate, any occupants, lienholders or lessees shall be served with a copy of the order.

200.8(8) Reasonable time to comply. The order shall give the owner a reasonable time to comply with its mandate(s). The fire marshal shall determine what constitutes a reasonable time by considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish the building, facility, or installation and other reasonable, relevant information.

200.8(9) Reinspection. If the owner of the building, facility, or installation elects not to challenge the fire marshal's order, the fire marshal shall, at the end of the period during which compliance was required, conduct another inspection of the building, facility, or installation.

a. If the fire marshal finds that the order has been complied with, the fire marshal shall notify the county attorney, owner and requester of this fact.

b. If the fire marshal finds that the order has not been complied with, the fire marshal shall notify the county attorney of noncompliance.

NOTE: An owner who receives a notice of noncompliance from the fire marshal may appeal the notice using procedures established in rule 661—200.2(100).

200.8(10) *Failure to comply.* Upon receipt from the fire marshal of notice of the owner's failure to comply, the county attorney shall:

a. Institute the procedure necessary to subject the owner to a penalty of \$10 for each day the owner fails to comply, and

b. Confirm the legal description of the property; the owner's name and address; the alleged deficiencies of the building, facility, or installation; that an inspection was conducted; that some deficiency was found; that the owner was properly served, notified and given an adequate opportunity to repair the deficiency; and that the deficiency has not been remedied, and

c. Advise the fire marshal that destruction is appropriate.

200.8(11) *Final action taken.* The fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building, facility, or installation. Such destruction may occur by:

a. Permitting the local fire service to burn the building, facility, or installation as a training exercise;

b. Asking for public bids on the building, facility, or installation; or

c. If significant costs are anticipated, the fire marshal may request funds from the Iowa executive council.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.9(100A) *Sharing of insurance company information with the fire marshal.* Insurance companies shall provide specified information to the fire marshal as follows:

200.9(1) Whenever an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, the insurance company shall provide to the fire marshal, or some other agency authorized to receive such information under Iowa Code chapter 100A, all information and material possessed by the company relevant to an investigation of the fire loss or a prosecution for arson.

200.9(2) Whenever the fire marshal, or an agent or employee of the fire marshal, requests in writing that an insurance company provide information in its possession regarding a fire to the fire marshal, the insurance company shall provide all relevant information requested. Relevant information may include, but need not be limited to:

a. Insurance policy information relating to a fire loss under investigation, including information on the policy application.

b. Policy premium payment records.

c. History of previous claims made by the insured.

d. Material relating to the investigation of the loss, including the statement of any person, proof of loss, and other information relevant to the investigation.

200.9(3) Unless otherwise expressly limited, any request for information under this rule shall be construed to be a request for all information in the possession of an insurance company. Any information in the custody or control of any agent, employee, investigator, attorney or other person engaged, on a permanent or temporary basis, by an insurance company in the person's professional relationship to the insurance company shall be considered to be in the possession of the insurance company subject to this rule.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.10(100A) *Release of information to an insurance company.* An insurance company that has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to the fire loss investigation from the fire marshal. If the insurance company has provided information to an authorized agency other than the fire marshal, the request shall include

proof that information was provided. For purposes of this rule, the term “insurance company” shall include an attorney, adjuster or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjuster or investigator is not a full-time employee of the insurance company. The attorney, adjuster or investigator shall provide the fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.11(100A) Forms. These rules require the use of the following forms that are available from the state fire marshal.

200.11(1) When an insurance company has reason to believe that a fire loss has occurred, the company shall notify the fire marshal on the form entitled Insurance Form Number One.

200.11(2) Requests for information by the fire marshal, the fire marshal’s agents or employees from an insurance company pursuant to Iowa Code section 100A.2 shall comply with the form entitled Insurance Form Number Two.

200.11(3) Material requested on Insurance Forms Number One and Two shall carry a cover form which complies with Insurance Form Number Three.

200.11(4) Requests for information by an insurance company from the fire marshal shall comply with Insurance Form Number Four.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapters 100, 101 and 101A.

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 201
GENERAL FIRE SAFETY REQUIREMENTS

661—201.1(100) Scope. The provisions of this chapter apply to all buildings, structures and facilities that are subject to the jurisdiction of the state fire marshal unless the building, structure, or facility is subject to the provisions of 661—Chapter 202, 661—Chapter 205, 661—Chapter 221, or 661—Chapter 231.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—201.2(100) General provisions. The following publications or indicated portions thereof are hereby adopted by reference as general fire safety requirements and shall apply to all occupancies other than those to which provisions specific to an occupancy explicitly exclude these provisions or any individual provision contained therein.

201.2(1) International Fire Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

Delete section 103 and sections contained therein, section 104 and sections contained therein, section 105 and sections contained therein, section 106 and sections contained therein, section 107 and sections contained therein, section 108 and sections contained therein, section 109 and sections contained therein, section 110 and sections contained therein, section 111 and sections contained therein, section 112, and section 113 and sections contained therein.

Delete section 301.2.

Delete section 307.2.

Delete section 307.3 and insert in lieu thereof the following new section:

307.3 Extinguishment Authority. The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

Delete section 308.1.4 and insert in lieu thereof the following new section:

308.1.4 Open Flame Cooking Devices. Charcoal burners and ash- or coal-producing devices shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. LP-gas burners connected to one (1) 20-pound LP-gas container.
3. Where buildings, balconies and decks are protected by an automatic sprinkler system.

Delete section 315.2.3 and insert in lieu thereof the following new section:

315.2.3 Equipment Rooms. Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms.

Exception: In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical or electrical equipment in the room.

Delete section 405.2 and table 405.2 and insert in lieu thereof the following new section and new table:

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

TABLE 405.2
FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B ^(c)	Annually	Employees
Group E	See ^(a) below	All occupants
Group I	Quarterly on each shift	Employees
Group I ^(b) and Group R-4 (assisted living facilities)	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2 ^(d)	Four annually	All occupants
High-rise	Annually	Employees

Footnotes:

(a) The frequency shall be allowed to be modified in accordance with Section 408.3.2. Fire and severe weather drills shall be conducted in accordance with Iowa Code chapter 100.

(b) Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Drills shall be conducted not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

(c) Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

(d) Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

Delete section 609.1 and insert in lieu thereof the following new section:

609.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition.

Delete section 807.4.3.1 and insert in lieu thereof the following new section:

807.4.3.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. Storage in metal lockers, provided the minimum required egress width is maintained.

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

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

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet (9144 mm) of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms.

Add the following new paragraph to section 907.2.2:

4. The Group B fire area that contains an educational occupancy for students above the twelfth grade with an occupant load of greater than 50 persons.

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

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

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.
 - 2.5. The capability to activate the evacuation signal from a central point is provided.
 - 2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.
3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

Add the following new section 1003.8:

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

Amend any reference to any section within chapter 22 to read as a reference to “Chapter 22.”

Delete chapter 22 and insert in lieu thereof the following new chapter:

CHAPTER 22

MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES

SECTION 2201

GENERAL

2201.1 Motor fuel-dispensing facilities and repair garages shall comply with the applicable provisions of 661—Chapter 221.

Amend any reference to any section within chapter 34 to read as a reference to “Chapter 34.”

Delete chapter 34 and insert in lieu thereof the following new chapter:

CHAPTER 34

FLAMMABLE AND COMBUSTIBLE LIQUIDS

SECTION 3401

GENERAL

3401.1 Transportation, storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of 661—Chapter 221.

Amend any reference to any section within chapter 38 to read as a reference to “Chapter 38.”

Delete chapter 38 and insert in lieu thereof the following new chapter:

CHAPTER 38

LIQUEFIED PETROLEUM GASES

SECTION 3801

GENERAL

3801.1 Transportation, storage, handling, and use of liquefied petroleum gases shall comply with the applicable provisions of 661—Chapter 226.

Delete section 4603.6.1 and insert in lieu thereof the following new section:

4603.6.1 Existing Group E occupancies shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. Where smoke or heat detectors are installed, such detectors shall be connected to the building fire alarm system.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet from another building.

2. Group E occupancy with an occupant load of less than 50.

Any reference to NFPA 10 is amended to read as follows:

NFPA 10 with the following amendment:

Delete sections 7.1.2.1, 7.1.2.2, and 7.1.2.3 and insert in lieu thereof the following new sections:

7.1.2.1 A trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual shall service the fire extinguishers not more than one year apart, as outlined in Section 7.3.

7.1.2.2* Maintenance, servicing, and recharging shall be performed by trained persons who have available the appropriate servicing manual(s), the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts specifically listed for use in the fire extinguisher.

NOTE: Requirements in NFPA 10 for certification of personnel who maintain portable fire extinguishers are removed. These personnel must still be trained and have available service manuals.

Adopt Appendices B, C, and D.

201.2(2) The following Chapters and Sections of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

a. Chapter 2.

b. Chapter 3.

c. Chapter 4.

d. Chapter 5.

e. Chapter 6.

f. Chapter 7.

g. Sections 804 and 805.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—201.3(100) Electrical installations. Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2008 edition, with the following amendment:

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

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

(1) Bathrooms.

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

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

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

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

(3) Outdoors.

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

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

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

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

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

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

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

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

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

(8) Boathouses.

661—201.4(100) Existing buildings or structures. Additions or alterations to any building or structure shall comply with the requirements of this chapter for new construction. Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any provisions of 661—Chapter 201. An existing building plus additions shall comply with the height and area provisions of Chapter 5 of the International Building Code, 2009 edition. Portions of the structure not altered and not affected by the alteration are not required to comply with the requirements established in 661—Chapter 201 for a new structure.
[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—201.5(100) Recognition of local fire ordinances and enforcement. With the exception of a health care facility subject to the requirements of 661—Chapter 205, a building, structure, or facility shall be deemed to be in compliance with the requirements established in rules of the fire marshal if all of the following conditions are met:

1. The building, structure, or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference any edition of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; any edition of NFPA 1, Uniform Fire Code, published by the National Fire Protection Association; or the Uniform Fire Code, 1997 edition, published by the Western Fire Chiefs Association.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building, structure, or facility is subject to regular fire safety inspections.

4. The local jurisdiction has verified, during its most recent inspection, including any follow-up inspections, that the building, structure, or facility is in compliance with the local fire ordinance.

Notwithstanding any conflicting provisions contained in any code adopted by reference in this chapter or by any local fire ordinance, compliance with the provisions of 661—Chapter 221 is required at any location or facility in which flammable or combustible liquids are stored, handled, or used, other than incidental use.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 100.

[Filed 11/2/06, Notice 9/13/06—published 11/22/06, effective 1/1/07]

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

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 202
REQUIREMENTS FOR SPECIFIC OCCUPANCIES

661—202.1(100) Scope. The provisions of this chapter apply solely to buildings, structures, and facilities currently being used in the specific ways described in this chapter. All other buildings, structures, and facilities in which people congregate are subject to the provisions of 661—Chapter 201 or 661—Chapter 205.

This rule is intended to implement Iowa Code chapter 100.

661—202.2(237) Facilities in which foster care is provided by agencies to fewer than six children. Any facility, including a single-family residence, within which foster care is provided by an agency to fewer than six children, shall meet each of the requirements established in this rule.

202.2(1) Battery-operated smoke detectors shall be installed in each sleeping room and on each floor of the home and shall be installed in compliance with the manufacturer's instructions.

202.2(2) Each exit and exit path shall remain clear and unobstructed at all times.

202.2(3) A five-pound 2A:10B:C fire extinguisher shall be installed in the primary caregiver's sleeping room. Additional extinguishers may be provided. Each extinguisher in the facility shall be inspected yearly by a third party in accordance with NFPA 10, Standard for Portable Fire Extinguishers, 2007 edition.

202.2(4) No combustible items shall be stored within a three-foot clearance of furnaces, hot water heaters, and electrical panels.

202.2(5) A carbon monoxide detector shall be installed on each floor of the residence. A detector shall be installed in proximity to any gas-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

202.2(6) If propane is used in the facility, a propane leak detector shall be installed in proximity to each propane-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

202.2(7) An evacuation plan shall be maintained, and fire drills shall be conducted at least once every other month.

202.2(8) If a child is sleeping in a basement room, then an egress window shall be provided in the room. "Egress window" means an existing operable window with a clear opening area of not less than 5.7 square feet, and with a minimum opening height and width of 24 inches and 20 inches, respectively.

This rule is intended to implement Iowa Code section 237.3, subsection 3.

661—202.3(137C) Bed and breakfast inns.

202.3(1) The following definitions apply to rule 661—202.3(137C):

"Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel; does not require reservations; and serves food only to overnight guests. Rule 661—202.3(137C) shall not apply to bed and breakfast homes. However, a bed and breakfast home shall have a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

"Bed and breakfast inn" means a building equipped, used, or advertised as or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished for hire to transient guests and which has nine or fewer guest rooms.

202.3(2) Appliances. Heating, cooking and gas and electrical equipment and appliances must conform with nationally recognized codes and standards and be installed and maintained in accordance with the manufacturer's recommendations. If the building has an operable solid fuel fireplace, all components must be cleaned and maintained in accordance with NFPA 211, 2006 edition.

202.3(3) *Smoke detectors.* Each bed and breakfast inn shall have an operable smoke detector in each guest room, at the top of each stairwell, and at intervals not to exceed 30 feet in each exit corridor. Detectors shall be installed and maintained in accordance with NFPA 72, 2007 edition.

a. Existing facilities. In bed and breakfast inns which begin operation or are constructed or remodeled prior to February 1, 2002, required smoke detectors may be battery-operated.

b. New facilities. Each bed and breakfast inn which began operation or is constructed or remodeled on or after February 1, 2002, shall be equipped with a system of interconnected smoke detectors with detectors at the top of each stairwell and at intervals not to exceed 30 feet in each exit corridor. These smoke detectors shall receive primary power from the building's electrical wiring and shall include battery backup. Each guest room shall be equipped with a smoke detector which may be a single station detector.

202.3(4) *Emergency lighting.* Each bed and breakfast inn must be equipped with approved emergency lighting so located and directed in a manner that will illuminate the routes of travel from each guest-occupied room to the outside of the building.

202.3(5) *Windows.* Each bed and breakfast inn guest sleeping room must have at least one outside window that is openable without the use of tools or special knowledge. The window must be large enough that, when open and without breaking glass, it will permit the emergency egress of guests.

202.3(6) *Exits.* Each story that has one or more guest sleeping rooms must have two means of exit that are remote from each other and so arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency.

202.3(7) *Exit door markings.* Exit doors must be marked in accordance with the International Fire Code, 2006 edition, chapter 10.

202.3(8) *Fire extinguishers.* Fire extinguishers must be installed and maintained in accordance with NFPA 10, 2007 edition.

202.3(9) *Smoking prohibited.* Smoking is not permitted in any sleeping room, and rooms shall be posted with plainly visible signs so stating.

202.3(10) *Additional prohibitions.* Candles, lamps with power sources other than electricity and solid fuel fireplaces shall not be used in guest sleeping rooms.

202.3(11) *Directions.* Each bed and breakfast inn shall have clearly displayed in each guest sleeping room printed directions and a diagram for emergency evacuation procedures. These directions must include the primary route to the outside and how to use the emergency egress window in the event the primary route cannot be traversed.

This rule is intended to implement Iowa Code section 137C.35.

661—202.4(100) Existing jails and correctional facilities. Rescinded IAB 11/18/09, effective 1/1/10.

661—202.5(100,135C) General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2.

202.5(1) *Scope.* This rule applies to specialized facilities licensed under the provisions of Iowa Code section 135C.2 which have three to five beds and serve persons with mental retardation, chronic mental illness, developmental disabilities, or brain injuries.

202.5(2) *Exits.*

a. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms.

b. Interior and exterior stairways shall have a minimum clear width of not less than 30 inches.

202.5(3) *Windows.* Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and access to fresh air in the event of an emergency.

a. In new construction, windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, and minimum net clear openable width of 20 inches, and the finished sill height shall be not more than 44 inches above the floor.

b. In existing construction, the finished sill height shall be not more than 44 inches above the floor or may be accessible from a platform not more than 44 inches below the window sill.

202.5(4) Interior finish. Interior finish in an exit shall be Class A, B or C.

202.5(5) Doors. Doors to resident sleeping rooms shall be a minimum of 1 $\frac{3}{8}$ -inch solid core wood or equivalent.

202.5(6) Vertical separations. Basement stairs must be enclosed with one-hour rated partitions and 1 $\frac{3}{4}$ -inch solid core wood doors equipped with self-closers. These doors must be kept closed unless held open by an approved electromagnetic holder, actuated by an approved smoke detection device located at the top of the stairwell and interconnected with the alarm system.

202.5(7) Fire detection, fire alarms and sprinklers.

a. The home shall have smoke detection installed on each occupied floor, including basements, in accordance with NFPA 72, 1999 edition, Chapter 11. Smoke detectors shall be interconnected so that activation of any detector will sound an audible alarm throughout. The system shall be tested by a competent person at least semiannually with date of test and name noted.

b. Homes in which exiting is restricted by special door-locking arrangements that prevent residents from free egress shall be equipped with sprinkler systems meeting the requirements of National Fire Protection Association Standard Number 13D, 1996 edition.

202.5(8) Fire extinguishers.

a. Approved fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

202.5(9) Mechanical, electrical and building service equipment.

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing the same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. All hazardous areas normally found in one- and two-family dwellings, such as laundry, kitchen, heating units and closets, need not be separated with walls if all equipment is installed in accordance with the manufacturer's listed instructions.

b. Portable comfort heating devices are prohibited.

202.5(10) Attendants; evacuation plan.

a. Every home shall have at least one staff person on the premises at all times while residents are present. This staff person shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than management personnel or a person under management control shall be considered an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed with respect to their duties under the plan. The plan shall be posted where all employees may readily study it. Fire drills shall be held at least once a month. Records must be kept available for inspection.

202.5(11) Smoking.

a. There shall be no smoking in resident sleeping areas, and smoking and no smoking policies shall be strictly enforced.

b. Ashtrays shall be constructed of noncombustible material with self-closing tops and shall be provided in all areas where smoking is permitted.

202.5(12) Exit illumination. Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

202.5(13) Occupancy restrictions.

a. Occupancies not under the control of, or not necessary to, the administration of residential care facilities are prohibited therein with the exception of the residence of the owner or manager.

b. Nonambulatory residents shall be housed only on accessible floors which have direct access to grade where the use of stairs or elevators is not required.

202.5(14) Maintenance.

a. All fire and life safety equipment or devices shall be regularly and properly maintained in an operable condition at all times in accordance with nationally recognized standards. Such equipment and devices include fire extinguishing equipment, alarm systems, doors and their appurtenances, cords and switches, heating and ventilating equipment, sprinkler systems and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

This rule is intended to implement Iowa Code section 135C.2, subsection 5, paragraph “*b.*”
[ARC 8307B, IAB 11/18/09, effective 1/1/10]

[Filed 11/2/06, Notice 9/13/06—published 11/22/06, effective 1/1/07]

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 205
FIRE SAFETY REQUIREMENTS FOR HOSPITALS AND
HEALTH CARE FACILITIES

[Prior to 4/2/03, see rules 661—5.550(100) to 661—5.603(100)]

[Prior to 6/22/05, see rules 661—5.900(100) to 661—5.950(135C)]

661—205.1(100) Definitions. The following definitions apply to rules 661—205.1(100) through 661—205.25(100).

“*Ambulatory health care facility*” means a facility or portion thereof used to provide services or treatment that provides, on an outpatient basis, treatment for one or more patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others; or provides, on an outpatient basis, anesthesia that renders the patient incapable of taking action for self-preservation under emergency conditions without the assistance of others.

“*Existing*” means that a facility (1) has been in continuous operation under its current classification of occupancy since before September 11, 2003, and has not undergone renovation or remodeling, including an addition, on or after September 11, 2003, or (2) received plan approval for initial construction or for its most recent renovation or remodeling project, including an addition, if any, from the building code bureau of the fire marshal division prior to March 11, 2003.

“*Hospice*” means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

“*Hospital*” means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

“*Intermediate care facility for the mentally retarded*” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.2(3)“c.”

“*New*” means that a facility (1) commenced continuous operation under its current classification of occupancy on or after September 11, 2003, (2) has undergone renovation or remodeling, including an addition, on or after September 11, 2003, or (3) received plan approval from the building code bureau of the fire marshal division for the initial construction of the facility or the most recent renovation of or addition to the facility on or after March 11, 2003.

“*NFPA*” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“*Nursing facility*” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6, including a nursing facility for intermediate care or a nursing facility for skilled care.

661—205.2 to 205.4 Reserved.

661—205.5(100) Hospitals.

205.5(1) *New hospitals.* NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new hospitals.

205.5(2) *Existing hospitals.* NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing hospitals, with the following amendments:

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

Section 19.2.9 is not effective prior to March 13, 2006.

205.5(3) *Alcohol-based hand rub dispensers.* Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a hospital may install alcohol-based hand rub dispensers in its facility if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

661—205.6 to 205.9 Reserved.

661—205.10(100) Nursing facilities and hospices.

205.10(1) *New nursing facilities and hospices.* NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new nursing facilities and hospices that provide inpatient care directly.

205.10(2) *Existing nursing facilities and hospices.* NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing nursing facilities and hospices that provide inpatient care directly, with the following amendments:

Section 19.2.9 is not effective prior to March 13, 2006.

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

205.10(3) *Alcohol-based hand rub dispensers.* Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a hospice or nursing facility may place alcohol-based hand rub dispensers in its facility if:

- a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;
- b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
- c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

205.10(4) *Smoke detectors in nursing facilities.* A nursing facility shall:

- a. Install battery-operated smoke detectors in resident sleeping rooms and public areas by May 24, 2006.
- b. Have a program for testing, maintenance, and battery replacement to ensure the reliability of the smoke detectors.

EXCEPTION: Battery-operated smoke detectors are not required in each resident sleeping room and public area if either the facility has a hard-wired AC smoke detection system in patient rooms and public areas that is installed, tested, and maintained in accordance with NFPA 72, National Fire Alarm Code, for hard-wired AC systems, or the facility has a sprinkler system throughout that is installed, tested, and maintained in accordance with NFPA 13, Automatic Sprinklers.

661—205.11 to 205.14 Reserved.

661—205.15(100) Intermediate care facilities for the mentally retarded and intermediate care facilities for persons with mental illness.

205.15(1) *New intermediate care facilities.* New intermediate care facilities for the mentally retarded and new intermediate care facilities for persons with mental illness shall comply with the provisions of one of the following:

- a. NFPA 101, Life Safety Code, 2000 edition, Chapter 18.
- b. NFPA 101, Life Safety Code, 2000 edition, Chapter 32, with the following amendments:

NOTE: Any requirement contained within Chapter 32 that is based on a rating of evacuation capability shall be based upon an evacuation capability rating of “impractical.” Any provision which is dependent upon an evacuation capability rating other than “impractical” shall be unavailable.

- (1) Delete Section 32.2.1.2.1 and insert in lieu thereof the following new section:

32.2.1.2.1

Small facilities shall comply with the requirements of Section 32.2 as indicated for an evacuation capability of impractical.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

- (2) Delete Section 32.2.1.2.2 and insert in lieu thereof the following new section:

32.2.1.2.2

The evacuation capability shall be classified as impractical.

(3) Delete Exception No. 1 to Section 32.2.2.1.

(4) Delete Exceptions No. 2 and No. 3 to Section 32.2.2.4.

(5) Delete the Exception to Section 32.2.3.2.

(6) Delete Exception No. 1 to Section 32.2.3.5.1.

(7) Delete Exceptions No. 1, No. 3 and No. 4 to Section 32.2.3.5.2.

(8) Delete Exception No. 2 to Section 32.2.3.5.2 and insert in lieu thereof the following new Exception No. 2:

EXCEPTION NO. 2: An automatic sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, with a 30-minute water supply, shall be permitted. All habitable areas and closets shall be sprinklered. Facilities with more than eight residents shall be treated as two-family dwellings with regard to water supply.

(9) Delete Exception No. 5 to Section 32.2.3.5.2 and insert in lieu thereof the following new Exception No. 5:

EXCEPTION NO. 5: In facilities up to and including four stories in height, systems in accordance with NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, shall be permitted. All habitable areas and closets shall be sprinklered.

(10) Delete Section 32.2.3.5.3.

(11) Delete Section 32.2.3.5.4 and insert in lieu thereof the following new section:

32.2.3.5.4

Automatic sprinkler systems shall be supervised in accordance with Section 9.7.

(12) Delete Exception No. 1 to Section 32.2.3.6.1.

(13) Delete Section 32.3.1.2.1.

(14) Delete Section 32.3.1.2.2 and insert in lieu thereof the following new section:

32.3.1.2.2

Large facilities shall meet the requirements for limited care facilities in Chapter 18.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(15) Delete Section 32.3.1.2.3.

(16) Delete the Exception to Section 32.3.1.3.3, paragraph (a).

(17) Delete Section 32.4.1.4 and insert in lieu thereof the following new section:

32.4.1.4 Minimum Construction Requirements.

In addition to the requirements of Chapter 30, apartment buildings housing residential board and care facilities shall meet the construction requirements of 18.1.6. In applying the construction requirements, the height shall be determined by the height of the residential board and care facility measured above the primary level of exit discharge.

EXCEPTION: If the new board and care occupancy is created in an existing apartment building, the construction requirements of 19.1.6 shall apply.

(18) Delete Exception No. 2 to Section 32.7.3 and insert in lieu thereof the following new Exception No. 2:

EXCEPTION NO. 2: Those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill. Section 18.7 shall apply in such instances.

205.15(2) Existing intermediate care facilities. Existing intermediate care facilities for the mentally retarded and existing intermediate care facilities for persons with mental illness shall comply with the provisions of one of the following:

a. NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

b. NFPA 101, Life Safety Code, 2000 edition, Chapter 33, with the following amendments:

NOTE: Any requirement contained in Chapter 33 that is determined on a rating of evacuation capability shall be based upon an evacuation capability rating of "impractical." Any provision which depends upon an evacuation rating of "prompt" or "slow" shall be unavailable.

(1) Delete Section 33.1.7.

(2) Delete Section 33.2.1.2.1 and insert in lieu thereof the following new section:

33.2.1.2.1

Small facilities shall comply with the requirements of Section 33.2.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(3) Delete Section 33.2.1.2.2 and insert in lieu thereof the following new section:

33.2.1.2.2

The evacuation capability shall be classified as impractical.

(4) Delete Section 33.2.1.3 and insert in lieu thereof the following new section:

33.2.1.3 Minimum Construction Requirements.

Buildings shall be of any construction type in accordance with 8.2.1 other than Type II(000), Type III(200), or Type V(000) construction.

EXCEPTION: Buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with 33.2.3.5 shall be permitted to be of any type of construction.

(5) Delete Exception No. 1 to Section 33.2.2.1.

(6) Delete Section 33.2.2.2.2 and insert in lieu thereof the following new section:

33.2.2.2.2

The primary means of escape for each sleeping room shall not be exposed to living areas and kitchens.

EXCEPTION: Buildings equipped with quick-response or residential sprinklers throughout. Standard response sprinklers shall be permitted for use in hazardous areas in accordance with 33.2.3.2.

(7) Delete Exception No. 2, Exception No. 3, and Exception No. 4 to Section 33.2.2.4.

(8) Delete the Exception to Section 33.2.3.3.

(9) Delete Section 33.2.3.5.2 and insert in lieu thereof the following new section:

33.2.3.5.2*

Where an automatic sprinkler system is installed, for either total or partial building coverage, the system shall be in accordance with Section 9.7 and shall activate the fire alarm system in accordance with 33.2.3.4.1. The adequacy of the water supply shall be documented to the authority having jurisdiction.

EXCEPTION NO. 1: An automatic sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, with a 30-minute water supply, shall be permitted. All habitable areas and closets shall be sprinklered. Automatic sprinklers shall not be required in bathrooms not exceeding 55 ft² (5.1 m²), provided that such spaces are finished with lath and plaster or materials providing a 15-minute thermal barrier.

EXCEPTION NO. 2: In facilities up to and including four stories in height, systems installed in accordance with NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, shall be permitted. All habitable areas and closets shall be sprinklered. Automatic sprinklers shall not be required in bathrooms not exceeding 55 ft² (5.1 m²), provided that such spaces are finished with lath and plaster or materials providing a 15-minute thermal barrier.

EXCEPTION NO. 3: Initiation of the fire alarm system shall not be required for existing installations in accordance with 33.2.3.5.5.

(10) Delete Section 33.2.3.5.3 and insert in lieu thereof the following new section:

33.2.3.5.3

All facilities shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 33.2.3.5.2.

(11) Delete Exception No. 1 and Exception No. 4 to Section 33.2.3.6.1.

(12) Delete Section 33.3.1.1 and insert in lieu thereof the following new section:

33.3.1.1 Scope.

Section 33.3 applies to residential board and care occupancies providing sleeping accommodations for more than 16 residents. Facilities having sleeping accommodations for not more than 16 residents shall be evaluated in accordance with Section 33.2.

(13) Delete Section 33.3.1.2 and insert in lieu thereof the following new section:

33.3.1.2 Requirements.

Large facilities shall meet the requirements for limited care facilities in Chapter 19.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(14) Delete the Exception to Section 33.3.1.3.3, paragraph (a).

(15) Delete Exception No. 2 to Section 33.3.3.6.1.

(16) Delete Exception No. 2 to Section 33.3.3.6.3.

(17) Delete Section 33.4.1.3 and insert in lieu thereof the following new section:

33.4.1.3 Requirements.

33.4.1.3.1

Apartment buildings housing board and care facilities shall comply with the requirements of Section 33.4.

Exception*: Facilities where the authority having jurisdiction has determined that equivalent safety for housing a residential board and care facility is provided in accordance with Section 1.5.

33.4.1.3.2

All facilities shall meet the requirements of Chapter 31 and the additional requirements of Section 33.4.

(18) Delete Section 33.4.1.4 and insert in lieu thereof the following new section:

33.4.1.4 Minimum Construction Requirements.

In addition to the requirements of Chapter 31, apartment buildings housing residential board and care facilities shall meet the construction requirements of 19.1.6. In applying the construction requirements, the height shall be determined by the height of the residential board and care facility measured above the primary level of exit discharge.

(19) Delete Exception No. 2 to Section 33.7.3 and insert in lieu thereof the following new exception:

EXCEPTION NO. 2: Those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill. Section 19.7 shall apply in such instances.

205.15(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a facility may install alcohol-based hand rub dispensers if:

- a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;
- b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
- c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and
- d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

661—205.16 to 205.19 Reserved.

661—205.20(100) Ambulatory health care facilities.

205.20(1) New ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 20, is adopted by reference as the fire safety rules for new ambulatory health care facilities.

205.20(2) Existing ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 21, is adopted by reference as the fire safety rules for existing ambulatory health care facilities, with the following amendments:

Section 21.2.9.1 is not effective prior to March 13, 2006.

205.20(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, an ambulatory health care facility may place alcohol-based hand rub dispensers in its facility if:

- a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

- b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
- c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and
- d. The dispensers are installed in accordance with the following provisions:
 - (1) Where dispensers are installed in a corridor, the corridor shall have a minimum width of 6 ft (1.8 m);
 - (2) The maximum individual dispenser fluid capacity shall be:
 - 1. 0.3 gallons (1.2 liters) for dispensers in rooms, corridors, and areas open to corridors;
 - 2. 0.5 gallons (2.0 liters) for dispensers in suites of rooms;
 - (3) The dispensers shall have a minimum horizontal spacing of 4 ft (1.2 m) from each other;
 - (4) Not more than an aggregate 10 gallons (37.8 liters) of alcohol-based hand rub solution shall be in use in a single smoke compartment outside of a storage cabinet;
 - (5) Storage of quantities greater than 5 gallons (18.9 liters) in a single smoke compartment shall meet the requirements of NFPA 30, Flammable and Combustible Liquids Code;
 - (6) The dispensers shall not be installed over or directly adjacent to an ignition source; and
 - (7) In locations with carpeted floor coverings, dispensers installed directly over carpeted surfaces shall be permitted only in sprinklered smoke compartments.

661—205.21 to 205.24 Reserved.

661—205.25(100) Religious nonmedical health care institutions.

205.25(1) *New religious nonmedical health care institutions.* NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new religious nonmedical health care institutions.

205.25(2) *Existing religious nonmedical health care institutions.* NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing religious nonmedical health care institutions, with the following amendments:

Section 19.2.9 is not effective prior to March 13, 2006.

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

205.25(3) *Alcohol-based hand rub dispensers.* Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a religious nonmedical health care institution may place alcohol-based hand rub dispensers in its facility if:

- a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;
- b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
- c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and
- d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

These rules are intended to implement Iowa Code section 100.35 and chapters 135B, 135C, 135J and 231C and 42 CFR Parts 403, 416, 418, 482 and 483.

661—205.26 to 205.99 Reserved.

661—205.100(135C) Residential care facilities. Rescinded IAB 11/18/09, effective 1/1/10.

[Filed 9/17/57; amended 10/9/57, 1/5/60]

[Filed 10/12/71; amended 12/31/73]

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CHAPTERS 232 to 234
Reserved

CHAPTER 235
COMMERCIAL EXPLOSIVE LICENSING
[Prior to 11/18/09, see 661—Ch 5]

661—235.1(101A) Licensing program established. A commercial explosive licensing program is hereby established in the fire marshal division. The program shall issue licenses to commercial explosive firms and to individual blasters as provided in this chapter.

235.1(1) The commercial explosive licensing program is located at the following address:

Commercial Explosive Licensing Program

Fire Marshal Division

Iowa Department of Public Safety

215 East 7th Street

Des Moines, Iowa 50319

The program may be contacted by mail or in person at this address.

235.1(2) The program may be contacted by telephone at (515)725-6145, by fax at (515)725-6172, or by electronic mail at fminfo@dps.state.ia.us.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.2(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive business license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current individual blaster license issued pursuant to this chapter. An individual blaster license shall not be required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes “fireworks” from the definition of “explosive.” Consequently, working with fireworks does not require a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks require a commercial explosive license.
[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.3(101A) License application process.

235.3(1) Anyone wishing to obtain an application for a commercial explosive business license or an individual blaster license may obtain a copy of the required application by contacting the commercial explosive licensing program as specified in rule 661—235.1(101A).

235.3(2) A completed application for a license shall be submitted to the commercial explosive licensing program at the address specified in subrule 235.1(1). All information requested on the application shall be provided prior to the processing of the application.

235.3(3) Each license application shall be accompanied by a \$60 fee for each license for which application is being made, paid by check or money order made payable to the Iowa Department of Public Safety. If the application is being submitted later than January 31 of a given year, then the fee for each license shall be \$5 per month for each month remaining in the calendar year, including the month in which the application is submitted.

235.3(4) Each license issued shall expire on December 31 of the year in which it is issued, except that a license issued in December of any year shall expire on December 31 of the following year.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.4(101A) Issuance of commercial explosive business license. A commercial explosive business license shall be issued only if all of the following conditions have been satisfied:

235.4(1) All items required on the application have been completed, and any items the fire marshal deems necessary to verify have been verified and found to be true.

235.4(2) For purposes of this rule, “responsible person” means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials. Generally, “responsible person” includes partners, sole proprietors, site managers, corporate officers, directors and majority shareholders.

235.4(3) No responsible person or manager of the business for which commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective business licensee:

- a. Has been convicted of a felony or any offense involving explosives or firearms;
- b. Has been previously disqualified from being licensed to handle explosives in this or any other state. The fire marshal may grant a license to a person previously disqualified if the fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c. Is an unlawful user of or is addicted to controlled substances;
- d. Has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person’s capacity to function normally and safely, both toward themselves and others.

235.4(4) The business has at least one responsible person or employee licensed as an individual blaster.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.5(101A) Issuance of individual blaster license. An individual blaster license shall be issued only if all of the following conditions have been satisfied:

235.5(1) The applicant is an employee of a licensed commercial explosive business.

a. If, after an individual blaster license is issued, such employment ceases, the employing business and the individual blaster shall each notify the fire marshal within three business days of the final day of employment that the employment has ceased, and the individual blaster license shall be suspended until the individual blaster is again employed with a licensed commercial explosive business.

b. Upon reemployment, the employer shall notify the fire marshal that the individual blaster is again employed with a licensed commercial explosive business, and the fire marshal shall reinstate the individual blaster license as soon as practical, provided that the individual blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the fire marshal finds that an individual blaster is disqualified from holding a license, the fire marshal shall revoke the license.

235.5(2) All items required on the application have been completed and any items the fire marshal deems necessary to verify have been verified and found to be true.

235.5(3) The applicant is not or has not been:

a. Convicted of a felony or any offense involving explosives or firearms;

b. Previously disqualified from being licensed to handle explosives in this or any other state. The fire marshal may grant a license to a person previously disqualified if the fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. An unlawful user of or addicted to controlled substances;

d. Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

e. A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder which impairs a person’s capacity to function normally and safely toward themselves or others.

235.5(4) The applicant has satisfactorily completed training approved by the fire marshal for the handling and use of explosives. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The fire marshal may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive business licensee.

EXCEPTION: The fire marshal may issue an individual blaster license to a person licensed or certified as a blaster in another state, provided that the fire marshal finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

235.5(5) The applicant is 21 years of age or older.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.6(101A) Inventory and records.

235.6(1) Each licensed commercial explosive business shall maintain records to show amounts of explosive material on hand at the beginning and end of each working day and quantities dispensed and to whom. The business shall conduct physical inventories at least once annually. Anytime a shortage appears that is in excess of limits established by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the shortage shall be reported within 24 hours to the chief of police or sheriff having jurisdiction, who in turn shall cause a federal Form 4712 (Department of Treasury, Internal Revenue Service) to be completed, a copy of which shall be sent to the commercial explosive licensing program, as specified in rule 661—235.1(101A). Inventory records shall be retained for five years after the date for which the activity is recorded and shall be made available upon request of the fire marshal.

235.6(2) Each licensed individual blaster shall maintain a daily record of all explosive materials received and fired or otherwise disposed of by the individual blaster. Such records are the property of the business license holder, who shall retain them for five years and make them available to the fire marshal upon request.

235.6(3) Any loss, theft, or unlawful removal of explosive materials shall be reported within 24 hours to the Bureau of Alcohol, Tobacco, Firearms and Explosives, to the fire marshal and to the local law enforcement agency having jurisdiction.

235.6(4) Any accident involving explosive materials that causes an injury to a person which requires medical attention or that causes damage to property beyond the limits of the property on which the blasting is being conducted or to property for which the responsible person has not provided a written waiver to the blasting operation shall be reported promptly to the fire marshal.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.7(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

235.7(1) The fire marshal may refuse to issue a commercial or individual blaster license for the manufacture, importation, distribution, sale, and commercial use of explosives sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is not of good moral character and sound judgment. “Not of good moral character and sound judgment” means disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

b. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

c. Finding that the applicant or licensee falsified information in the current or any previous license application.

d. Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person’s capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.

f. Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, pursuant to the procedures set forth in Iowa Code chapter 252J.

g. Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue, pursuant to Iowa Code chapter 272D.

235.7(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action pursuant to 661—Chapter 10, except that wherever “commissioner of public safety” or “department of public safety” appears, “fire marshal” shall be substituted. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue shall be subject to the provisions of rule 661—235.7(101A,252J). Procedures specified in 661—Chapter 10 for contesting department actions shall not apply in these cases.

235.7(3) The fire marshal shall notify the employing commercial explosive business licensee of the denial, suspension, or revocation of an individual blaster license.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.8(101A,252J) Child support collection procedures. The following procedures shall apply to actions taken by the fire marshal on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

235.8(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

235.8(2) The effective date of revocation or suspension of a license or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee or applicant.

235.8(3) Licensees and applicants for licensure shall keep the fire marshal 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 fire marshal with copies, within 7 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.

235.8(4) All fees for applications, license renewal or reinstatement must be paid by the licensee or applicant before a license will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

235.8(5) In the event a licensee or applicant files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal 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 fire marshal to proceed. For the purpose of determining the effective date of revocation, suspension or denial of the issuance or renewal of a license, the fire marshal 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.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

661—235.9(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D.

235.9(1) The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

235.9(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service of the notice upon the licensee.

235.9(3) Licensees shall keep the state fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district

court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

235.9(4) All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

235.9(5) In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the fire marshal 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 fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the fire marshal 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.

235.9(6) Suspensions or revocations imposed pursuant to this rule may not be appealed administratively to the fire marshal or within the department of public safety.

NOTE: The procedures established in rule 661—235.9(101A,272D) implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

[ARC 8303B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapters 101A, 252J, and 272D.

[Filed ARC 8303B (Notice ARC 8155B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

CHAPTERS 236 to 250
Reserved

CHAPTER 251
FIRE FIGHTER TRAINING AND CERTIFICATION
[Prior to 9/29/04, see 661—Ch 54]

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) to 251.204(100B):

“*Emergency incident*” means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

“*NFPA*” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“*Structural fire fighting*” means fire fighting in a hazardous environment which requires the use of self-contained breathing apparatus.

661—251.2 to 251.100 Reserved.

MINIMUM TRAINING STANDARDS

661—251.101(100B) Minimum training standard. On or after July 1, 2010, any member of a fire department shall have completed the training requirements identified in the job performance requirements for the fire fighter I classification in NFPA 1001, Standard for Fire Fighter Professional Qualifications, 2002 edition, chapter 5, prior to the member’s engaging in structural fire fighting. Each fire department shall identify its members who are or will be engaged in structural fire fighting and shall ensure that any member engaged in structural fire fighting on or after July 1, 2010, has completed the training requirements specified in this rule prior to the member’s engaging in structural fire fighting.

NOTE: A fire fighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

EXCEPTION 1: A fire fighter who received training which complied with the job performance requirements for the fire fighter I classification contained in an earlier edition of NFPA 1001 shall be deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural fire fighting. Any such extension shall be for one year and may be renewed annually upon application. An extension shall be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the fire fighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the fire fighters in the department. The application shall be in a form specified by the fire marshal and shall list by name each fire fighter for whom an extension is requested. The extension, if granted, shall list by name the fire fighters to whom the extension applies and shall apply only to those listed.

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural fire fighting at an emergency incident on or after July 1, 2010, shall have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.103(100B) Continuing training. After July 1, 2010, fire department members shall participate in at least 24 hours of continuing training annually, which shall be selected from the following subject areas:

- Personal protective equipment and respiratory protection
- Structural fire fighting techniques including standard operating policies or standard operating guidelines
- Ground ladders
- Hose and hose appliances
- Ventilation
- Forcible entry
- Search and rescue techniques
- Fire fighter safety
- Incident management system or incident command system
- Emergency vehicle driver-operator
- Hazardous materials first responder—operations level
- Emergency medical service (EMS) training
- Additional training based on standard operating procedures or standard operating guidelines
- Other Occupational Safety and Health Administration (OSHA)-related training, such as blood-borne pathogen protection
- Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural fire fighting techniques
- Emergency response to terrorism
- Any other training designed to meet local training needs

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.104(100B) Record keeping. Each fire department shall maintain training records for each individual member of the department who participates in emergency incidents. These training records shall identify, for all training completed by the individual fire fighter, the person or persons who provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

661—251.105 to 251.200 Reserved.

FIRE FIGHTER CERTIFICATION

661—251.201(100B) Fire fighter certification program. There is established within the fire service training bureau of the fire marshal division a fire fighter certification program for the state of Iowa, which shall be known as the Iowa fire service certification system. The Iowa fire service certification system is accredited by the International Fire Service Accreditation Congress to certify fire service personnel to accepted national standards. All certifications issued by the Iowa fire service certification system shall be based upon nationally accepted standards. Participation in the Iowa fire service certification system is voluntary in that state law does not require certification to work or volunteer as a fire fighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

Inquiries and requests regarding the Iowa fire service certification system should be directed to Iowa Fire Service Certification System, Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50010-3100. The bureau can be contacted by telephone at (888)469-2374 (toll-free) or at (515)294-6817, by fax at (800)722-7350 (toll-free) or (515)294-2156, or by electronic mail at fstbinfo@dps.state.ia.us. Further information can be found on the Web site for the fire service training bureau at www.state.ia.us/government/dps/fm/fstb.

251.201(1) Eligibility. Any person seeking certification through the Iowa fire service certification system shall be a current member of a fire, emergency, or rescue organization within the state of Iowa and shall be at least 18 years of age.

EXCEPTION: Persons not meeting the requirement of membership in a fire, emergency, or rescue organization may be granted exceptions to this requirement on an individual basis. Individuals seeking such exceptions shall address these requests to the fire service training bureau.

251.201(2) Application. Application forms for each level of fire fighter certification may be obtained from the fire service training bureau, or on the bureau's Web site at www.state.ia.us/government/dps/fm/fstb. In order to enter the certification program, an applicant shall submit a completed application, accompanied by the required fee, to the fire service training bureau. The fee must accompany the application form, although a purchase order from a public agency or private organization may be accepted in lieu of prior payment. The application and fee shall be submitted no less than two weeks prior to the date of any examination in which the applicant wishes to participate.

661—251.202(100B) Certification standards. Standards for Iowa fire fighter certification are based upon nationally recognized standards established by the National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Certification at each level in the Iowa fire service certification system results in national certification as well.

251.202(1) Fire fighter.

a. Fire fighter I. Certification as a fire fighter I is based upon the requirements for fire fighter I certification established in NFPA 1001, "Standard for Fire Fighter Professional Qualifications," 2008 edition, chapter 5.

b. Fire fighter II. Certification as a fire fighter II is based upon the requirements for fire fighter II certification established in NFPA 1001, "Standard for Fire Fighter Professional Qualifications," 2008 edition, chapter 6.

251.202(2) Driver/operator.

a. Driver/operator (pumper). Certification as a driver/operator (pumper) is based upon the requirements for fire department vehicle driver/operator (pumper) certification established in NFPA 1002, "Standard on Fire Apparatus Driver/Operator Professional Qualifications," 2009 edition, chapter 5.

b. Driver/operator (aerial). Certification as a driver/operator (aerial) is based upon the requirements for fire department vehicle driver/operator (aerial) certification established in NFPA 1002, "Standard on Fire Apparatus Driver/Operator Professional Qualifications," 2009 edition, chapter 6.

251.202(3) Fire officer.

a. Fire officer I. Certification as a fire officer I is based upon the requirements for fire officer I certification established in NFPA 1021, "Standard for Fire Officer Professional Qualifications," 2009 edition, chapter 4.

b. Fire officer II. Certification as a fire officer II is based upon the requirements for fire officer II certification established in NFPA 1021, "Standard for Fire Officer Professional Qualifications," 2009 edition, chapter 5.

251.202(4) Fire inspector. Certification as a fire inspector I is based upon the requirements for certification as a fire inspector I established in NFPA 1031, "Standard for Professional Qualifications for Fire Inspector and Plans Examiner," 2009 edition, chapter 4.

251.202(5) Fire investigator. Certification as a fire investigator is based upon the requirements for certification as a fire investigator established in NFPA 1033, "Standard for Professional Qualifications for Fire Investigator," 2009 edition, chapter 4.

251.202(6) Fire service instructor.

a. Fire service instructor I. Certification as a fire service instructor I is based upon the requirements for certification as a fire service instructor I established in NFPA 1041, "Standard for Fire Service Instructor Professional Qualifications," 2007 edition, chapter 4.

b. Fire service instructor II. Certification as a fire service instructor II is based upon the requirements for certification as a fire service instructor II established in NFPA 1041, "Standard for Fire Service Instructor Professional Qualifications," 2007 edition, chapter 5.

251.202(7) Responder to hazardous materials incidents.

a. Responder to hazardous materials incidents (awareness). Certification as a responder to hazardous materials incidents (awareness) is based upon the requirements for certification as a responder to hazardous materials incidents (awareness) established in NFPA 472, “Standard for Professional Competence of Responders to Hazardous Materials Incidents/Weapons of Mass Destruction Incidents,” 2008 edition, chapter 4.

b. Responder to hazardous materials incidents (operations). Certification as a responder to hazardous materials incidents (operations) is based upon the requirements for certification as a responder to hazardous materials incidents (operations) established in NFPA 472, “Standard for Professional Competence of Responders to Hazardous Materials Incidents/Weapons of Mass Destruction Incidents,” 2008 edition, chapter 5, sections 6.2 through 6.2.5.1 and sections 6.4 through 6.4.6.1.

[ARC 8302B, IAB 11/18/09, effective 1/1/10]

661—251.203(100B) Fees. Current certification application fees and any other fees related to participation in the certification process shall be listed in the publication Certification Procedures Guide for each level of certification, published by the fire service training bureau and available on request from the fire service training bureau. The information in each guide shall be effective upon publication until superseded by publication of a later edition. Prospective candidates who are considering application for a particular level of certification should contact the fire service training bureau for the latest date of publication of the Certification Procedures Guide.

Fees may be paid by personal check made payable to Iowa Department of Public Safety—Fire Service Training Bureau, credit card, purchase order from a public agency or private organization, check or draft from a public agency or private organization, or money order. The check, credit card information, purchase order, money order or draft shall be submitted with the application.

661—251.204(100B) Certification, denial, and revocation of certification.

251.204(1) Certification. Upon completion of the requirements for certification, the applicant’s name shall be entered into the Iowa certification database maintained by the fire service training bureau for the respective level of certification and into the National Certification Data Base maintained by the International Fire Service Accreditation Congress. Individuals who successfully complete the certification requirements shall also receive an individualized certificate awarding national certification from the fire service training bureau, which will bear a numbered seal from the International Fire Service Accreditation Congress, and additional insignia from the fire service training bureau.

251.204(2) Denial of certification. Certification shall be denied to any applicant who fails to meet all of the requirements for the type of certification, who knowingly submits false information to the fire service training bureau, or who engages in fraudulent activity during the certification process.

251.204(3) Revocation. The fire marshal may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process.

251.204(4) Appeals. Any person who is denied certification or whose certification is revoked may appeal the denial or revocation. An appeal of a denial or revocation of certification shall be made to the commissioner of public safety within 30 days of the issuance of the denial or revocation using the contested case procedures specified in 661—Chapter 10.

These rules are intended to implement Iowa Code chapter 100B.

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[Filed ARC 8302B (Notice ARC 8178B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 300
STATE BUILDING CODE—ADMINISTRATION
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

661—300.1(103A) State building code promulgated. Iowa Code section 103A.7 assigns to the building code commissioner authority to promulgate the state building code, with the approval of the building code advisory council, except that adoption of the state historic building code requires the approval of the state historical society board of trustees, rather than the building code advisory council.

The state building code, as authorized by Iowa Code section 103A.7, includes 661—Chapters 16, 300, 301, 302, and 303. The state historic building code is set forth in 661—Chapter 350.

661—300.2(103A) Building code commissioner. The building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4 shall serve as the chief of the building code bureau. The building code commissioner shall adopt, and amend as needed, the state building code, with the approval of the building code advisory council, and the state historic building code, with the approval of the state historical society board. The building code commissioner also shall appoint the board of review from among the council membership. The building code commissioner shall consider any request for the use of alternate materials or methods of construction submitted to the building code bureau pursuant to Iowa Code section 103A.13, and shall either disapprove each such request or shall recommend approval of the request to the building code advisory council.

661—300.3(103A) Building code advisory council. The building code advisory council appointed by the governor pursuant to Iowa Code section 103A.14 shall consider amendments to the state building code proposed by the building code commissioner, other than amendments to the state historic building code. The council shall approve or disapprove any changes to the state building code proposed by the building code commissioner. The council shall also consider and approve or disapprove any requests for use of alternate materials or methods of construction, the approval of which has been recommended to the council by the building code commissioner.

661—300.4(103A) Plan reviews.

300.4(1) Plans and specifications review—approvals.

a. Submissions to the building code commissioner of architectural technical documents, engineering documents, and plans and specifications are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

b. “Responsible design professional” means a registered architect or licensed professional engineer who signs the documents submitted.

c. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.

d. In sections 107.1 and 107.2.5 of the International Building Code, 2009 edition, the word “permit” shall be replaced by the words “plan review.”

e. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

f. Plans and specifications for projects with a construction cost of \$1 million or more or projects subject to inspection by the commissioner shall be submitted in an electronic format.

EXCEPTION: For projects with a construction cost of less than \$1 million that are subject to inspection by the commissioner, two identical sets of plans and specifications may be submitted in lieu of electronic submittal.

NOTE: The electronic submission of plans and specifications for projects that are not subject to inspection by the commissioner and with a construction cost of less than \$1 million is strongly encouraged but not required.

g. Any person planning to submit documents electronically shall contact the bureau for written instructions.

h. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all state-owned buildings or facilities, including additions to existing buildings, shall be submitted to the commissioner for review and comment. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

i. Architectural technical submissions, engineering documents, and plans and specifications for the initial construction of any building or facility that will not, when completed, be wholly owned by the state or an agency of the state shall be submitted to the commissioner for review and comment, if the construction is financed in whole or in part with funds appropriated by the state and there is no local building code in effect in the local jurisdiction in which the construction is planned or, if there is such a local building code in effect, it is not enforced through a system which includes both plan reviews and inspections. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

j. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all buildings or facilities, including additions to existing buildings, to which the state building code applies, other than those subject to paragraph "h" or "i," shall be submitted to the commissioner for review and comment, unless applicability of the state building code is based upon a local ordinance enacted pursuant to Iowa Code section 103A.12. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

k. If the state building code applies to a construction project based upon a local ordinance adopting the state building code, the submission shall be made to the local jurisdiction, provided that the local jurisdiction has established a building department, unless the local jurisdiction requires submission to the commissioner. Review and approval of such documents by the commissioner shall be at the discretion of the commissioner based upon available resources.

l. No project for which a life cycle cost analysis is required to be completed pursuant to Iowa Code section 470.2 shall be approved for construction prior to receipt by the commissioner of the life cycle cost analysis, final approval of the life cycle cost analysis by the commissioner and the office of energy independence pursuant to Iowa Code section 470.7, and the completion of all applicable requirements established in Iowa Code section 470.7.

m. No project for which an energy review is required pursuant to subrule 303.1(3) shall be approved for construction prior to the receipt by the commissioner of the energy review.

NOTE: Compliance with the requirements of paragraphs "l" and "m" at the earliest practical time is strongly recommended. In no case shall the submission occur later than specified in the applicable statutory provisions and provisions of the state building code.

n. Any submission to the commissioner of architectural technical submissions, engineering documents, or plans and specifications for construction, except for plans to renovate or remodel

residential buildings of one or two units, shall include a statement that the construction will comply with all applicable energy conservation requirements.

300.4(2) Copies and fees. See 661—Chapters 16, 302, and 303 for fees pertaining to factory-built structures.

a. Copies of the state building code or any portion thereof are available through the Web site of the department of public safety.

NOTE: Codes and standards adopted by reference in the state building code which are published by other organizations, including, but not limited to, the American National Standards Institute, the International Code Council, the International Association of Plumbing and Mechanical Officials, and the National Fire Protection Association, may be purchased from the publishing organization. A copy of each code or standard adopted by reference in the state building code has been deposited in the Iowa state law library.

b. The fees for plan reviews completed by the building code bureau shall be calculated as follows:

Estimated Construction Costs	Calculation of Plan Review Fee
Up to and including \$1 million	\$.58 per thousand dollars or fraction thereof (minimum fee \$200)
More than \$1 million	\$580 for the first \$1 million plus \$.32 for each additional thousand dollars or fraction thereof
The plan review fees for fire suppression systems and fire alarm systems are separate fees and shall be calculated as follows:	
Fire Protection System Costs	Plan Review Fee
Fire suppression systems whose construction cost for materials and installation is calculated to be up to and including \$5,000	\$100
Fire suppression systems whose construction cost for materials and installation is calculated to be more than \$5,000 and up to and including \$20,000	\$200
Fire suppression systems whose construction cost for materials and installation is estimated to be more than \$20,000	\$400
Fire alarm systems whose construction cost for materials and installation is calculated to be up to and including \$5,000	\$100
Fire alarm systems whose construction cost for materials and installation is calculated to be more than \$5,000 and up to and including \$20,000	\$200
Fire alarm systems whose construction cost for materials and installation is estimated to be more than \$20,000	\$400

Payment of the assigned fee shall accompany each plan when submitted for review. Payment shall be made by money order, check or draft made payable to the Treasurer, State of Iowa.

c. A person who has submitted a plan for review for which a fee has been assessed pursuant to paragraph “*b*” is eligible to receive a refund of the fee if the plan has not been approved or rejected within 60 calendar days of its receipt by the building code bureau. A person who believes that a refund is due shall notify the building code commissioner who shall provide a form to the person who submitted the plan for review to request a refund. If the request for refund is approved, the building code commissioner shall cause a check for the amount of the refund to be issued to the individual or organization that originally paid the fee. If the original submission of the plan is incomplete, the fee shall be refunded only if the plan has not been approved or rejected within 60 days of a full and complete submission of the plan. “Approved or rejected within 60 days” means that a letter approving or rejecting the plan has been presented or mailed to the submitter within 60 days of the date of receipt by the building code bureau, within the meaning of “time” as defined in Iowa Code section 4.1.

300.4(3) Preliminary meeting. The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the commissioner.

300.4(4) Requests for staged approvals.

a. Requests for approval to begin foundation work shall be submitted to the building code bureau in writing and may be transmitted by mail, E-mail or fax or in person. Foundation approval may be granted by the bureau in writing, following a preliminary meeting, if the construction plans and specifications are found to be in compliance with the requisite code provisions.

b. Requests for approval to continue construction beyond the foundation, up to and including the shell of the building, shall be submitted to the bureau in writing and may be transmitted by mail, E-mail or fax or in person. These requests will be evaluated on a case-by-case basis, and approval or denial of the requests will be transmitted to the submitter in a written form.

300.4(5) Fast-track projects. While fast-track projects are not encouraged, fast-track projects may be considered by the commissioner on a case-by-case basis. If a fast-track project is initially approved, a written plan of submittal, review and approval will be developed for each project. All projects approved for fast-track review must be submitted in an electronic format that is acceptable to the commissioner.

NOTE: Fast-track projects are not encouraged and will be approved only on the basis of good cause shown.

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

661—300.5(103A) Inspections.

300.5(1) Any building or facility for which construction is subject to a plan review by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner or by a third party with whom the commissioner contracts to conduct inspections of buildings and facilities subject to the state building code.

EXCEPTION: Construction which is limited to building renovations or repairs shall not be subject to inspection by the commissioner.

300.5(2) Any construction involving any building or facility owned by the board of regents or by an institution subject to the authority of the board of regents shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner.

EXCEPTION: Construction which is limited to building renovations or repairs shall not be subject to inspection by the commissioner.

300.5(3) Buildings subject to inspection by the state building code commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall pay an inspection fee based upon the construction cost of the project. The inspection fee shall be calculated as follows:

Construction Cost	Base Inspection Fee
Up to \$100,000	\$598
\$100,001 to \$1,000,000	\$645
\$1,000,001 to \$10,000,000	\$722
\$10,000,001 and above	\$783
Follow-up inspection	\$214

The base inspection fee shall cover three inspections—a foundation, rough-in and final. The base inspection fee shall be due and payable at the time completed construction documents are submitted for review. The plan review will not be conducted until the proper base inspection fee is paid. Checks should be made payable to the Treasurer, State of Iowa, and delivered to the bureau office. This fee is separate and distinct from the plan review fee established in subrule 300.4(2).

Additional inspections may occur for any of the following reasons:

- a. During one of the three base inspections, code violations are identified that require that a follow-up inspection be conducted to verify that the violations have been corrected.
- b. Upon arrival, the inspector finds that the project is not ready for the type of inspection requested.
- c. By special request of the project designer, contractor or owner.
- d. Upon order of the building code commissioner (no additional charge).

The fee for each additional inspection shall be calculated individually as follows:

One hour on site = \$206

One to two hours on site = \$240

Two to three hours on site = \$273

Three to four hours on site = \$307

Four to five hours on site = \$341

Five to six hours on site = \$374

Additional inspection fees will be billed to the responsible architect or building contractor on a monthly basis. The building may receive only temporary approval for occupancy if unpaid inspection fees remain at the time of final inspection.

Inspection fees and standard operating procedures for construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents shall be established through a written agreement between the commissioner and the board of regents.

300.5(4) Any person who performs a building code inspection on behalf of the building code commissioner shall have and maintain one of the following: (1) current certification as a commercial building inspector by the International Code Council, or (2) other equivalent certification approved by the building code commissioner. An employee of the department who performs an inspection on behalf of the building code commissioner shall, in addition, meet any requirements for the job class in which the employee is classified as established by the department of administrative services, pursuant to Iowa Code chapter 8A, subchapter IV, part 2.

EXCEPTION: An employee of the department who performs inspections on behalf of the building code commissioner may perform such inspections for no more than six months prior to obtaining the required certification.

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

661—300.6(103A) Local code enforcement. Provisions of the state building code applicable statewide or applicable in a local jurisdiction which has adopted the state building code by local ordinance may be enforced by the local jurisdiction.

Any local jurisdiction which adopts the state building code by local ordinance may further adopt provisions for the administration and enforcement of the building code by the local jurisdiction. These provisions may include administrative provisions contained in the codes adopted by reference as part of the state building code and may include other provisions at the discretion of the local jurisdiction.

300.6(1) Creation of department. There may be established within the governmental subdivision a “building department” which shall be under the jurisdiction of the building official designated by the appointing authority. Within the state building code, including publications adopted by reference within the state building code, the terms “administrative authority,” “authority having jurisdiction,” and “authorized representative” shall mean the building official.

300.6(2) Powers and duties of building official. The building official in those governmental subdivisions establishing a building department shall enforce all the provisions of any applicable building code as prescribed by local law or ordinance and as outlined by Iowa Code section 103A.19.

300.6(3) *Permits only.* Any governmental subdivision that has not established a building department but requires a permit to construct or an occupancy permit or both shall be known as the “issuing authority.”

300.6(4) *Statement of compliance with energy conservation requirements.* Any application for a building permit, except for applications to renovate or remodel residential buildings of one or two units, shall include a statement that the construction will comply with all applicable energy conservation requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Delete section 101.1.

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

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

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

Delete section 101.4 and sections therein.

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

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

Delete sections 103, 104, 105 and sections therein.

Delete section 106.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exceptions:

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

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

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

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

Add the following new section 1003.8:

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

Add the following new section 1100:

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

Delete chapter 29.

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

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

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

Delete appendices A through K.

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

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

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

301.3(1) Hospitals and health care facilities.

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

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

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

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

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

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

301.3(2) Reserved.

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

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

Delete section 101.1.

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

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

SECTION 403

MECHANICAL VENTILATION

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

Delete appendices A and B.

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

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

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

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

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

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

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

(1) Bathrooms.

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

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

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

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

(3) Outdoors.

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

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

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

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

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

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

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

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

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

(8) Boathouses.

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

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

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

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

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

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

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

661—301.7(103A) Existing buildings.

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

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

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

Delete section 101.1.

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

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

Delete section 101.5.4.

Delete section 101.5.4.1.

Delete section 101.5.4.2.

Delete section 101.7.

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

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

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

Delete section 605.

Delete section 706.

Delete section 806.

Delete section 912.8.

Delete chapters A1 through A5.

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

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

Delete resource A.

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

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

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

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

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

Delete section R101.1.

Delete sections R103 to R114 and sections therein.

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

Delete chapter 11.

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

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

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

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

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

Delete section R313.1 and insert in lieu thereof the following new section:

R313.1 Townhouse automatic residential fire sprinkler systems. Effective January 1, 2013, an automatic residential fire sprinkler system shall be installed in townhouses.

EXCEPTION: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to an existing townhouse that does not have an automatic residential fire sprinkler system installed.

Delete section R313.2 and insert in lieu thereof the following new section:

R313.2 One- and two-family dwellings automatic residential fire sprinkler systems. Effective January 1, 2013, an automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

EXCEPTION: An automatic residential fire sprinkler system shall not be required for additions or alterations to an existing building that is not already provided with an automatic fire sprinkler system.

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

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

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

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

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

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

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

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

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

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

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

Delete appendices A through Q.

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

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

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

661—301.10(103A) Transition period. A construction project that is subject to the provisions of any rule in 661—Chapter 301 or 661—Chapter 303 which requires compliance with provisions of the 2009 edition of any code published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, may comply with the requirements established either in the edition of the code adopted herein or the requirements established in the edition of the same code previously in effect if the project is commenced no later than March 31, 2010. “Commenced” shall mean that the submitter has obtained preliminary approval from the commissioner or a local building department pursuant to rule 661—300.6(103A) prior to April 1, 2010. If final approval for the project design has not been obtained prior to October 1, 2010, the project is subject to the provisions of 661—Chapters 301 and 303 in effect as of January 1, 2010.

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

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

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

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

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

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

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

CHAPTER 303
STATE BUILDING CODE—REQUIREMENTS FOR
ENERGY CONSERVATION IN CONSTRUCTION
[Prior to 12/21/05, see rules 661—16.800(103A) to 661—16.802(103A)]

661—303.1(103A) Scope and applicability of energy conservation requirements.

303.1(1) Scope. Rules 661—303.1(103A) through 303.3(103A) establish thermal energy efficiency standards for the design of new buildings and structures or portions thereof, additions to existing buildings, and renovation and remodeling of existing buildings, except for residential buildings of one or two dwelling units, which are intended for human occupancy and which are heated or cooled by regulating their exterior envelopes and selection of their heating, ventilation, and air-conditioning systems, service water heating systems and equipment for the efficient use of energy, and lighting efficiency standards for buildings intended for human occupancy which are lighted.

303.1(2) Applicability. Rules 661—303.1(103A) through 661—303.3(103A) apply to design and construction of buildings which are intended for human occupancy throughout the state of Iowa. Any construction of buildings or facilities which are intended for human occupancy and which are heated or cooled is covered, with the exception of renovation and remodeling of residential buildings of one or two dwelling units, which are not covered. Rule 661—303.2(103A) establishes standards for design and construction of residential buildings of three or fewer stories. Rule 661—303.3(103A) establishes standards for design and construction of commercial buildings and residential buildings of four or more stories. The occupancy of any building covered by this chapter shall be determined based upon the occupancy definitions in chapter 3 of the International Building Code, 2006 edition.

303.1(3) Review by architect or engineer.

a. Review required. The plans and specifications for all buildings to be constructed which exceed a total volume of 100,000 cubic feet of enclosed space that is heated or cooled shall be reviewed by a registered architect or licensed professional engineer for compliance with applicable energy efficiency standards.

b. Statement of review. A statement that a review has been accomplished and that the design is in compliance with the energy efficiency standards shall be signed and sealed by the responsible registered architect or licensed professional engineer. This statement shall be filed with the commissioner or a local building official on a form approved by the commissioner prior to construction or before obtaining any local permits. The statement shall be filed with the commissioner for any project which is subject to plan review by the building code bureau.

c. Additional buildings. If the plans and specifications relating to energy efficiency for a specific structure have been approved, additional buildings may be constructed from those same plans and specifications without need of further approval if construction begins within five years of the date of approval. Alterations of a structure which has been previously approved shall not require a review because of these changes, provided the basic structure remains unchanged and no additional energy is required for heating, cooling or lighting.

d. Changes to approved plans. Prior to the completion of construction, no changes shall be made to any approved plan or specifications which increase the amount of energy used for heating, cooling, or lighting, unless the changes are approved by the responsible registered architect or licensed professional engineer in writing and notice has been filed with the commissioner or a local building official. The commissioner or a local building official shall be notified of any change which is anticipated to decrease the amount of energy used. Notification pursuant to this paragraph shall be to the commissioner for any project which is subject to plan review by the building code bureau.

661—303.2(103A) Residential energy code. The International Energy Conservation Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, is adopted by reference as the residential energy code of the state of Iowa building code, applicable to residential construction limited to three or fewer stories throughout the state of Iowa, with the following amendments:

Delete section 101.1.

Delete section 101.2.

Delete section 103.3.1.

Delete section 103.3.2.

Delete section 103.3.3.

Delete section 103.4.

Delete section 103.5.

Delete sections 104, 107, 108, and 109 and all sections contained within each of these.

Delete chapter 5.

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

661—303.3(103A) Adoption of nonresidential energy code. The International Energy Conservation Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, is hereby adopted by reference as the nonresidential energy code of the state building code, applicable to commercial construction or residential construction of four or more stories within the state of Iowa, with the following amendments:

Delete section 101.1.

Delete section 101.2.

Delete section 103.3.1.

Delete section 103.3.2.

Delete section 103.3.3.

Delete section 103.4.

Delete section 103.5.

Delete sections 104, 107, 108, and 109 and all sections contained within each of these.

Delete chapter 4.

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

661—303.4(470) Life cycle cost analysis.

303.4(1) *Submission required.* Any public agency as defined by Iowa Code section 470.1 shall prepare a life cycle cost analysis for any new construction having 20,000 square feet of usable floor space which is heated or cooled by a mechanical or electrical system or for any renovation where additions or alterations exceed 50 percent of the value of the facility and affect an energy system. The life cycle cost analysis shall be prepared in compliance with Iowa Code chapter 470 and shall be submitted to the state building code commissioner before construction commences.

303.4(2) *Notification by state agency.* Any public agency which is a state agency as defined in Iowa Code section 7D.34 shall, within 60 days of final selection of a design architect or engineer, notify the commissioner and the office of energy independence of the methodology to be used to perform the life cycle cost analysis. Notice shall be given on the forms provided by the office of energy independence for this purpose. A life cycle cost analysis prepared by a state agency shall be submitted in sufficient time ahead of the release of plans for bids to allow for revisions or additions which may be made to the plans. Public funds shall not be used for the construction or renovation of a facility unless the design for the work is prepared in accordance with Iowa Code chapter 470 and the actual construction or renovation is consistent with the design.

303.4(3) *Exemptions from implementation.* Any public agency responsible for construction or renovation of a public facility shall implement the recommendation of the life cycle cost analysis except as provided in this subrule.

a. A public agency responsible for construction or renovation of a public facility may apply to the commissioner for exemption from any recommendation of the life cycle cost analysis.

b. The public agency shall implement all recommendations of the life cycle cost analysis except those which have been approved for exemption by the commissioner and the director of the office of energy independence.

EXCEPTION: The public agency is not required to implement any recommendation which would result in a violation of any other provision of law. If the public agency determines that compliance with any

recommendation of the life cycle cost analysis would result in a violation of law, the public agency shall so notify the commissioner.

c. The commissioner and the director of the office of energy independence shall evaluate each request for an exemption on a case-by-case basis.

d. The commissioner and the director of the office of energy independence shall consider the following factors in determining whether or not to grant an exemption:

- (1) The purpose of the facility or renovation;
- (2) Preservation of historic architectural features;
- (3) Site considerations;
- (4) Health and safety concerns;
- (5) Compliance with any other provisions of law; and

(6) The technical feasibility of implementing the recommendation. “Technically feasible” means that a recommendation may be implemented without altering major structural features of an existing facility.

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

661—303.5(103A) Energy review fee. The fee for filing an energy review shall be \$25. Payment of the fee, by money order, check, or warrant made payable to Treasurer, State of Iowa, shall be included with the submission of documents for an energy review.

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

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

[Filed emergency 6/11/08—published 7/2/08, effective 6/15/08]

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

CHAPTER 350
STATE HISTORIC BUILDING CODE

661—350.1(103A) Scope and definition.

350.1(1) Scope. This chapter applies to buildings which meet the requirements for placement on the National Register of Historic Places. This chapter is an alternative to the state building code or local building codes for the buildings to which it applies.

“Historic building” means any building or structure that is listed in the state or National Register of Historic Places; that is designated as a historic property under local or state designation law or survey; that is certified as a contributing resource within a National Register-listed or locally designated historic district; or that has an opinion or certification that the property is eligible to be listed on the state or National Register of Historic Places either individually or as a contributing building to a historic district by the state historic preservation officer pursuant to Iowa Code section 103A.42 or the Keeper of the National Register of Historic Places.

350.1(2) Administration. The provisions of 661—Chapter 300 are adopted by reference.

350.1(3) Adoption. The provisions of the International Existing Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted as the alternative requirements for rehabilitation, preservation, restoration, and relocation of historic buildings, with the following amendments:

Delete section 101.1.

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

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

Delete section 101.5.4.

Delete section 101.5.4.1.

Delete section 101.5.4.2.

Delete section 101.7.

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

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

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

Delete the definition of “historic building.”

Delete section 605.

Delete section 706.

Delete section 806.

Delete section 912.8.

Delete appendix A, chapters A1 through A5, and appendix B.

Delete resource A.

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

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

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

EXCEPTION: A construction project subject to the provisions of this rule may comply with either the requirements adopted herein or the provisions of this rule as it was previously published if the project is commenced on or before March 31, 2010.

NOTE 1: International Existing Building Code, 2009 edition, Resource A, provides guidelines for evaluating fire ratings of archaic materials and assemblies which may be used by designers and code officials when evaluating compliance with provisions of this chapter.

NOTE 2: Except for elevators excluded from the jurisdiction of the Iowa division of labor services by the provisions of Iowa Code section 89A.2, each elevator is required to comply with any applicable requirements established by the Iowa division of labor services and is subject to enforcement of any applicable regulations by the Iowa division of labor services.

NOTE 3: Except for boilers and pressure vessels excluded from the jurisdiction of the Iowa division of labor services by the provisions of Iowa Code section 89.4, each boiler or pressure vessel is required to comply with any applicable requirements established by the Iowa division of labor services and is subject to enforcement of any applicable regulations by the Iowa division of labor services.

Any boiler which is subject to requirements established by the Iowa department of natural resources is required to comply with any such requirements and is subject to enforcement of any applicable regulations by the Iowa department of natural resources.

This rule is intended to implement Iowa Code sections 103A.41 through 103A.45.
[ARC 8304B, IAB 11/18/09, effective 1/1/10]

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LABOR SERVICES DIVISION[875]

[Prior to 11/19/97, see Labor Services Division[347]]

CHAPTER 1

DESCRIPTION OF ORGANIZATION AND
PROCEDURES BEFORE THE DIVISIONDIVISION I
ADMINISTRATION

1.1(91)	Definitions
1.2(91)	Scope and application
1.3(91)	Department of workforce development, division of labor services
1.4 to 1.10	Reserved

DIVISION II
OPEN RECORDS AND FAIR INFORMATION PRACTICES

1.11(22,91)	General provisions
1.12(22,91)	Request for access to records
1.13(22,91)	Access to confidential records
1.14(22,91)	Requests for treatment of a record as a confidential record and withholding from examination
1.15(22,91)	Procedure by which additions, dissents, or objections may be entered into certain records
1.16(22,91)	Consent to disclosure by the subject of a confidential record
1.17(22,91)	Disclosure without the consent of the subject
1.18(22,91,77GA,ch1105)	Availability of records
1.19(22,91)	Routine uses
1.20(22,91)	Release to a subject
1.21(22,91)	Notice to suppliers of information
1.22(22,91)	Data processing systems comparison
1.23(22,91)	Personally identifiable information
1.24 to 1.30	Reserved

DIVISION III
RULE-MAKING PROCEDURES

1.31(17A)	Applicability
1.32(17A)	Advice on possible rules before notice of proposed rule adoption
1.33(17A)	Public rule-making docket
1.34(17A)	Notice of proposed rule making
1.35(17A)	Public participation
1.36(17A)	Regulatory analysis
1.37(17A,25B)	Fiscal impact statement
1.38(17A)	Time and manner of rule adoption
1.39(17A)	Variance between adopted rule and published notice of proposed rule adoption
1.40(17A)	Exemptions from public rule-making procedures
1.41(17A)	Concise statement of reasons
1.42(17A,89)	Contents, style, and form of rule
1.43(17A)	Agency rule-making record
1.44(17A)	Filing of rules
1.45(17A)	Effectiveness of rules prior to publication
1.46(17A)	General statements of policy
1.47(17A)	Review by agency of rules
1.48 and 1.49	Reserved

DIVISION IV
DECLARATORY ORDERS

1.50(17A)	Petition for declaratory order
1.51(17A)	Notice of petition
1.52(17A)	Intervention
1.53(17A)	Briefs
1.54(17A)	Inquiries
1.55(17A)	Service and filing of petitions and other papers
1.56(17A)	Consideration
1.57(17A)	Action on petition
1.58(17A)	Refusal to issue order
1.59(17A)	Contents of declaratory order—effective date
1.60(17A)	Copies of orders
1.61(17A)	Effect of a declaratory order
1.62 to 1.64	Reserved

DIVISION V
CONTESTED CASES

1.65(17A)	Scope and applicability
1.66(17A)	Definitions
1.67(17A)	Time requirements
1.68(17A)	Requests for contested case proceeding
1.69(17A)	Notice of hearing
1.70(17A)	Presiding officer
1.71(17A)	Waiver of procedures
1.72(17A)	Disqualification
1.73(17A)	Consolidation—severance
1.74(17A)	Answer
1.75(17A)	Pleadings, service and filing
1.76(17A)	Discovery
1.77(17A)	Subpoenas
1.78(17A)	Motions
1.79(17A)	Prehearing conference
1.80(17A)	Continuances
1.81(17A)	Withdrawals
1.82(17A)	Intervention
1.83(17A)	Hearing procedures
1.84(17A)	Evidence
1.85(17A)	Default
1.86(17A)	Ex parte communication
1.87(17A)	Recording costs
1.88(17A)	Interlocutory appeals
1.89(17A)	Final decision—nonlicense decision
1.90(17A)	Final decision—license decision
1.91(17A)	Appeals and review
1.92(17A)	Applications for rehearing
1.93(17A)	Stays of agency actions
1.94(17A)	No factual dispute contested cases
1.95(17A)	Emergency adjudicative proceedings
1.96 to 1.98	Reserved

DIVISION VI
INTEREST, FEES AND CHARGES

- 1.99(17A,91) Interest
1.100 Reserved

DIVISION VII
WAIVERS AND VARIANCES FROM ADMINISTRATIVE RULES

- 1.101(17A,91) Scope
1.102(17A,91) Petitions
1.103(17A,91) Notice and acknowledgment
1.104(17A,91) Review
1.105(17A,91) Ruling
1.106(17A,91) Public availability
1.107(17A,91) Cancellation
1.108(17A,91) Violations
1.109(17A,91) Appeals

*IOWA OCCUPATIONAL
SAFETY AND HEALTH*

CHAPTER 2
IOSH ENFORCEMENT, IOSH RESEARCH AND STATISTICS,
IOSH CONSULTATION AND EDUCATION

- 2.1(88) Scope and application
2.2(88) IOSH enforcement
2.3(88) IOSH research and statistics
2.4(88) IOSH private sector consultative services
2.5(88) IOSH public sector consultative services
2.6(88) IOSH education

CHAPTER 3
INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

- 3.1(88) Posting of notice; availability of the Act, regulations and applicable standards
3.2(88) Objection to inspection
3.3(88) Entry not a waiver
3.4(88) Advance notice of inspections
3.5(88) Conduct of inspections
3.6(88) Representatives of employers and employees
3.7(88) Complaints by employees
3.8(88) Trade or governmental secrets
3.9(88) Imminent danger
3.10(88) Consultation with employees
3.11(88) Citations
3.12(88) Informal conferences
3.13(88) Petitions for modification of abatement date
3.14 to 3.18 Reserved
3.19(88) Abatement verification
3.20(88) Policy regarding employee rescue activities
3.21 Reserved
3.22(88,89B) Additional hazard communication training requirements
3.23(88) Definitions
3.24(88) Occupational safety and health bureau forms

CHAPTER 4

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

- 4.1(88) Purpose and scope
- 4.2(88) First reports of injury
- 4.3(88) Record-keeping regulations

CHAPTER 5

RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS,
TOLERANCES AND EXEMPTIONS

- 5.1(88) Purpose and scope
- 5.2(88) Definitions
- 5.3 Reserved
- 5.4(88) Effect of variances
- 5.5(88) Notice of a granted variance
- 5.6(88) Form of documents; subscription; copies
- 5.7(88) Temporary variance
- 5.8(88) Permanent variance
- 5.9(88) Special variance
- 5.10(88) Modification and revocation of rules or orders
- 5.11(88) Action on applications
- 5.12(88) Requests for hearings on applications
- 5.13(88) Consolidation of proceedings
- 5.14(88) Notice of hearing
- 5.15(88) Manner of service
- 5.16(88) Hearing examiner; powers and duties
- 5.17(88) Prehearing conferences
- 5.18(88) Consent findings and rules or orders
- 5.19(88) Discovery
- 5.20(88) Hearings
- 5.21(88) Decisions of hearing examiner
- 5.22(88) Motion for summary decision
- 5.23(88) Summary decision
- 5.24(88) Finality for purposes of judicial review

CHAPTERS 6 and 7

Reserved

CHAPTER 8

CONSULTATIVE SERVICES

- 8.1(88) Purpose and scope
- 8.2(88) Definitions
- 8.3(88) Request and scheduling of an on-site consultative visit
- 8.4(88) Conduct of a visit
- 8.5(88) Relationship to enforcement

CHAPTER 9

DISCRIMINATION AGAINST EMPLOYEES

- 9.1(88) Introductory statement
- 9.2(88) Purpose of this chapter
- 9.3(88) General requirements of Iowa Code section 88.9(3)
- 9.4(88) Persons prohibited from discriminating
- 9.5(88) Persons protected by Iowa Code section 88.9(3)
- 9.6(88) Unprotected activities distinguished

9.7 and 9.8	Reserved
9.9(88)	Complaints under or related to the Act
9.10(88)	Proceedings under or related to the Act
9.11(88)	Testimony
9.12(88)	Exercise of any right afforded by the Act
9.13 and 9.14	Reserved
9.15(88)	Filing of complaint for discrimination
9.16(88)	Notice of determination
9.17(88)	Withdrawal of complaint
9.18(88)	Arbitration or other agency proceedings
9.19 and 9.20	Reserved
9.21(88)	Walkaround pay disputes
9.22(88)	Employee refusal to comply with safety rules

CHAPTER 10

GENERAL INDUSTRY SAFETY AND HEALTH RULES

10.1(88)	Definitions
10.2(88)	Applicability of standards
10.3(88)	Incorporation by reference
10.4(88)	Exception for hexavalent chromium exposure in metal and surface finishing job shops
10.5 and 10.6	Reserved
10.7(88)	Definitions and requirements for a nationally recognized testing laboratory
10.8 to 10.11	Reserved
10.12(88)	Construction work
10.13 to 10.18	Reserved
10.19(88)	Special provisions for air contaminants
10.20(88)	Adoption by reference

CHAPTERS 11 to 25

Reserved

CHAPTER 26

CONSTRUCTION SAFETY AND HEALTH RULES

26.1(88)	Adoption by reference
----------	-----------------------

CHAPTER 27

Reserved

CHAPTER 28

OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

28.1(88)	Adoption by reference
----------	-----------------------

CHAPTER 29

SANITATION AND SHELTER RULES FOR RAILROAD EMPLOYEES

29.1(88)	Definitions
29.2(88)	Water supply
29.3(88)	Toilets
29.4(88)	Eating places and lunchrooms
29.5(88)	Sleeping accommodations
29.6(88)	Cleanliness and maintenance
29.7(88)	Conflicts resolved

CHAPTER 30

Reserved

CHILD LABOR

CHAPTER 31

Reserved

CHAPTER 32

CHILD LABOR

32.1(92)	Definitions
32.2(92)	Permits and certificates of age
32.3 and 32.4	Reserved
32.5(92)	Other work
32.6	Reserved
32.7(92)	Workweek
32.8(92)	Terms
32.9 and 32.10	Reserved
32.11(92)	Civil penalty calculation
32.12(92)	Civil penalty procedures
32.13 to 32.16	Reserved
32.17(92)	Definitions

CHAPTER 33

Reserved

CHAPTER 34

CIVIL PENALTIES

34.1(91A)	Civil penalties for Iowa Code chapter 91A violations
34.2(91A)	Investigation
34.3(91A)	Calculation of penalty
34.4(91A)	Settlement opportunity
34.5(91A)	Notice of penalty assessment; contested case proceedings
34.6(91A)	Judicial review

CHAPTER 35

WAGE COLLECTION PAYMENT

35.1(91A)	Definitions
35.2(91A)	Right of private action
35.3(91A)	Filing a claim
35.4(91A)	Investigation
35.5(91A)	Legal action on wage claims

CHAPTER 36

DISCRIMINATION AGAINST EMPLOYEES

36.1(91A)	Definitions
36.2(91A)	Employee rights
36.3(91A)	Purposes
36.4(91A)	General requirements
36.5(91A)	Unprotected activities distinguished
36.6(91A)	Complaint under or related to the Act
36.7(91A)	Proceedings under or related to the Act
36.8(91A)	Filing of complaint for discrimination or discharge
36.9(91A)	Withdrawal of complaints

- 36.10(91A) Arbitration or other agency proceedings
 36.11(91A) Decision of the commissioner

CHAPTER 37

Reserved

CHAPTER 38

EMPLOYMENT AGENCY LICENSING

- 38.1(94A) Definitions
 38.2(94A) Application and license
 38.3(94A) Non-employment agency activity
 38.4(94A) Complaints
 38.5(17A,94A,252J) Denials, revocations, reprimands and suspensions
 38.6(94A) Permissible fees charged by agency
 38.7 Reserved
 38.8(94A) Contracts and fee schedules

CHAPTERS 39 to 50

Reserved

RAILROADS

CHAPTERS 51 to 60

Reserved

AMUSEMENT PARKS AND RIDES

CHAPTER 61

ADMINISTRATION OF IOWA CODE CHAPTER 88A

- 61.1(88A) Purpose, scope and definitions
 61.2(88A) Administration
 61.3(88A) Exemptions

CHAPTER 62

SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES, AND
 CONCESSION BOOTHS

- 62.1(88A) Purpose, scope and definitions
 62.2(88A) Design criteria
 62.3(88A) Concession booth requirements
 62.4(88A) Walking surfaces, access and egress
 62.5 and 62.6 Reserved
 62.7(88A) Signal systems
 62.8(88A) Hazardous materials
 62.9 Reserved
 62.10(88A) General environment
 62.11(88A) Medical and first aid
 62.12(88A) Fire protection
 62.13(88A) Compressed gas and air equipment
 62.14 Reserved
 62.15(88A) Machinery and machine guarding
 62.16 Reserved
 62.17(88A) Welding, cutting and brazing
 62.18(88A) Operations
 62.19(88A) Electrical

CHAPTERS 63 and 64
Reserved

ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

CHAPTER 65

ELEVATOR SAFETY BOARD ADMINISTRATIVE AND REGULATORY AUTHORITY

- 65.1(89A) Definitions
- 65.2(89A) Purpose of board
- 65.3(21,89A) Organization of board
- 65.4(21,89A) Public meetings
- 65.5(89A) Official communications

CHAPTER 66

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES
BY THE ELEVATOR SAFETY BOARD

- 66.1(17A,89A) Waivers of rules
- 66.2(17A,89A) Applicability of rule
- 66.3(17A,89A) Criteria for waiver or variance
- 66.4(17A,89A) Filing of petition
- 66.5(17A,89A) Content of petition
- 66.6(17A,89A) Additional information
- 66.7(17A,89A) Notice
- 66.8(17A,89A) Board review procedures
- 66.9(17A,89A) Hearing procedures
- 66.10(17A,89A) Ruling
- 66.11(17A,89A) Public availability
- 66.12(17A,89A) Summary reports
- 66.13(17A,89A) Cancellation of a waiver
- 66.14(17A,89A) Violations
- 66.15(17A,89A) Defense
- 66.16(17A,89A) Judicial review

CHAPTER 67

ELEVATOR SAFETY BOARD PETITIONS FOR RULE MAKING

- 67.1(17A,89A) Petitions for rule making
- 67.2(17A,89A) Briefs
- 67.3(17A,89A) Inquiries
- 67.4(17A,89A) Board review procedures

CHAPTER 68

DECLARATORY ORDERS BY THE ELEVATOR SAFETY BOARD

- 68.1(17A,89A) Petition for declaratory order
- 68.2(17A,89A) Notice of petition
- 68.3(17A,89A) Intervention
- 68.4(17A,89A) Briefs
- 68.5(17A,89A) Inquiries
- 68.6(17A,89A) Service and filing of petitions and other papers
- 68.7(17A,89A) Board review procedures
- 68.8(17A,89A) Action on petition
- 68.9(17A,89A) Refusal to issue order
- 68.10(17A,89A) Contents of declaratory order—effective date
- 68.11(17A,89A) Copies of orders
- 68.12(17A,89A) Effect of a declaratory order

CHAPTER 69

CONTESTED CASES BEFORE THE ELEVATOR SAFETY BOARD

- 69.1(17A,89A) Reconsideration of inspection report
- 69.2(17A,89A) Appeal to the board
- 69.3(17A,89A) Informal review
- 69.4(17A,89A) Delivery of notice
- 69.5(17A,89A) Contents of notice
- 69.6(17A,89A) Scope of issues
- 69.7(17A,89A) File transmitted to the board
- 69.8(17A,89A) Legal representation
- 69.9(17A,89A) Presiding officer
- 69.10(17A,89A) Service and filing
- 69.11(17A,89A) Time requirements
- 69.12(17A,89A) Waiver of procedures
- 69.13(17A,89A) Telephone and electronic proceedings
- 69.14(17A,89A) Disqualification
- 69.15(17A,89A) Consolidation and severance
- 69.16(17A,89A) Discovery
- 69.17(17A,89A) Subpoenas in a contested case
- 69.18(17A,89A) Motions
- 69.19(17A,89A) Settlements
- 69.20(17A,89A) Prehearing conference
- 69.21(17A,89A) Continuances
- 69.22(17A,89A) Withdrawals
- 69.23(17A,89A) Hearing procedures
- 69.24(17A,89A) Evidence
- 69.25(17A,89A) Ex parte communication
- 69.26(17A,89A) Interlocutory appeals
- 69.27(17A,89A) Decisions
- 69.28(17A,89A) Contested cases with no factual disputes
- 69.29(17A,89A) Applications for rehearing
- 69.30(17A,89A) Stays of board actions
- 69.31(17A,89A) Judicial review

CHAPTER 70

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
OF THE ELEVATOR SAFETY BOARD

- 70.1(22,89A) Definitions
- 70.2(22,89A) Statement of policy
- 70.3(22,89A) Requests for access to records
- 70.4(22,89A) Access to confidential records
- 70.5(22,89A) Requests for treatment of a record as a confidential record and its withholding from examination
- 70.6(22,89A) Procedure by which additions, dissents, or objections may be entered into certain records
- 70.7(22,89A) Consent to disclosure by the subject of a confidential record
- 70.8(22,89A) Disclosures without the consent of the subject
- 70.9(17A,89A) Routine use
- 70.10(22,89A) Consensual disclosure of confidential records
- 70.11(22,89A) Release to subject
- 70.12(21,22,89A) Availability of records
- 70.13(22,89A) Applicability

- 70.14(17A,22,89A) Personally identifiable information
- 70.15(17A,21,22,89A) Other groups of records
- 70.16(22,89A) Data processing system
- 70.17(22,89A) Notice to suppliers of information

CHAPTER 71

ADMINISTRATION OF THE CONVEYANCE SAFETY PROGRAM

- 71.1(89A) Definitions
- 71.2(89A) Registration of conveyances
- 71.3(89A) State identification number
- 71.4(89A) Responsibility for obtaining permits
- 71.5(89A) Installation permits
- 71.6(89A) Construction permits
- 71.7(89A) Operating permits
- 71.8(89A) Controller upgrade permits
- 71.9(89A) Alteration permits
- 71.10(89A) Alterations
- 71.11(89A) Inspections
- 71.12(89A,252J,261,272D) Special inspector commissions
- 71.13(89A) State employees
- 71.14(89A) Safety tests
- 71.15(89A) Authorized companies
- 71.16(89A) Fees
- 71.17(89A) Publications available for review
- 71.18(89A) Other regulations affecting elevators
- 71.19(89A) Accidents

CHAPTER 72

CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

- 72.1(89A) Purpose and scope
- 72.2(89A) Definitions
- 72.3(89A) Accommodating the physically disabled
- 72.4(89A) Electric elevators
- 72.5(89A) Hydraulic elevators
- 72.6(89A) Power sidewalk elevators
- 72.7(89A) Performance-based safety code
- 72.8(89A) Hand and power dumbwaiters
- 72.9(89A) Escalators and moving walks
- 72.10(89A) General requirements
- 72.11 Reserved
- 72.12(89A) Wind tower lifts
- 72.13(89A) Alterations, repairs, replacements and maintenance
- 72.14 Reserved
- 72.15(89A) Power-operated special purpose elevators
- 72.16(89A) Inclined and vertical wheelchair lifts
- 72.17(89A) Hand-powered elevators
- 72.18(89A) Accommodating the physically disabled
- 72.19(89A) Limited-use/limited-application elevators
- 72.20(89A) Rack and pinion, screw-column elevators
- 72.21(89A) Inclined elevators
- 72.22(89A) Material lift elevators

- 72.23(89A) Elevators used for construction
- 72.24(89A) Construction personnel hoists

CHAPTER 73

CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

- 73.1(89A) Scope and definitions
- 73.2(89A) Hoistways
- 73.3(89A) Car enclosure: Passenger
- 73.4(89A) Car enclosure: Freight
- 73.5(89A) Brakes
- 73.6(89A) Machines
- 73.7(89A) Electrical protective devices
- 73.8(89A) Maintenance, repairs and alterations
- 73.9(89A) Machine rooms
- 73.10(89A) Pits
- 73.11(89A) Counterweights
- 73.12(89A) Car platforms and car slings
- 73.13(89A) Means of suspension
- 73.14(89A) Car safeties and speed governors
- 73.15(89A) Guide rails
- 73.16(89A) Existing hydraulic elevators
- 73.17(89A) Existing sidewalk elevators
- 73.18(89A) Existing hand elevators
- 73.19(89A) Power-operated special purpose elevators
- 73.20(89A) Inclined and vertical wheelchair lifts
- 73.21(89A) Handicapped restricted use elevators
- 73.22(89A) Escalators
- 73.23 Reserved
- 73.24(89A) Dumbwaiters

CHAPTERS 74 to 79

Reserved

BOILERS AND PRESSURE VESSELS

CHAPTER 80

BOILER AND PRESSURE VESSEL BOARD

ADMINISTRATIVE AND REGULATORY AUTHORITY

- 80.1(89) Definitions
- 80.2(21,89) Purpose of board
- 80.3(89) Organization of board
- 80.4(21,89) Public meetings
- 80.5(89) Official communications

CHAPTER 81

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

BY THE BOILER AND PRESSURE VESSEL BOARD

- 81.1(17A,89) Waivers of rules
- 81.2(17A,89) Applicability of rule
- 81.3(17A,89) Criteria for waiver or variance
- 81.4(17A,89) Filing of petition
- 81.5(17A,89) Content of petition
- 81.6(17A,89) Additional information
- 81.7(17A,89) Notice

81.8(17A,89)	Board review procedures
81.9(17A,89)	Hearing procedures
81.10(17A,89)	Ruling
81.11(17A,89)	Public availability
81.12(17A,89)	Summary reports
81.13(17A,89)	Cancellation of a waiver
81.14(17A,89)	Violations
81.15(17A,89)	Defense
81.16(17A,89)	Judicial review

CHAPTER 82

BOILER AND PRESSURE VESSEL BOARD PETITIONS FOR RULE MAKING

82.1(17A,89)	Petitions for rule making
82.2(17A,89)	Briefs
82.3(17A,89)	Inquiries
82.4(17A,89)	Board review procedures

CHAPTER 83

DECLARATORY ORDERS BY THE BOILER AND PRESSURE VESSEL BOARD

83.1(17A,89)	Petition for declaratory order
83.2(17A,89)	Notice of petition
83.3(17A,89)	Intervention
83.4(17A,89)	Briefs
83.5(17A,89)	Inquiries
83.6(17A,89)	Service and filing of petitions and other papers
83.7(17A,89)	Board review procedures
83.8(17A,89)	Action on petition
83.9(17A,89)	Refusal to issue order
83.10(17A,89)	Contents of declaratory order—effective date
83.11(17A,89)	Copies of orders
83.12(17A,89)	Effect of a declaratory order

CHAPTER 84

CONTESTED CASES BEFORE THE BOILER AND PRESSURE VESSEL BOARD

84.1(17A,89)	Reconsideration of inspection report
84.2(17A,89)	Appeal to the board
84.3(17A,89)	Informal review
84.4(17A,89)	Delivery of notice
84.5(17A,89)	Contents of notice
84.6(17A,89)	Scope of issues
84.7(17A,89)	File transmitted to the board
84.8(17A,89)	Legal representation
84.9(17A,89)	Presiding officer
84.10(17A,89)	Service and filing
84.11(17A,89)	Time requirements
84.12(17A,89)	Waiver of procedures
84.13(17A,89)	Telephone and electronic proceedings
84.14(17A,89)	Disqualification
84.15(17A,89)	Consolidation and severance
84.16(17A,89)	Discovery
84.17(17A,89)	Subpoenas in a contested case
84.18(17A,89)	Motions
84.19(17A,89)	Settlements

84.20(17A,89)	Prehearing conference
84.21(17A,89)	Continuances
84.22(17A,89)	Withdrawals
84.23(17A,89)	Hearing procedures
84.24(17A,89)	Evidence
84.25(17A,89)	Ex parte communication
84.26(17A,89)	Interlocutory appeals
84.27(17A,89)	Decisions
84.28(17A,89)	Contested cases with no factual disputes
84.29(17A,89)	Applications for rehearing
84.30(17A,89)	Stays of board actions
84.31(17A,89)	Judicial review

CHAPTER 85

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES OF THE BOILER AND PRESSURE VESSEL BOARD

85.1(22,89)	Definitions
85.2(22,89)	Statement of policy
85.3(22,89)	Requests for access to records
85.4(22,89)	Access to confidential records
85.5(22,89)	Requests for treatment of a record as a confidential record and its withholding from examination
85.6(22,89)	Procedure by which additions, dissents, or objections may be entered into certain records
85.7(22,89)	Consent to disclosure by the subject of a confidential record
85.8(22,89)	Disclosures without the consent of the subject
85.9(17A,89)	Routine use
85.10(22,89)	Consensual disclosure of confidential records
85.11(22,89)	Release to subject
85.12(21,22,89)	Availability of records
85.13(22,89)	Applicability
85.14(17A,22,89)	Personally identifiable information
85.15(17A,22,89)	Other groups of records
85.16(22,89)	Data processing system
85.17(22,89)	Notice to suppliers of information

CHAPTERS 86 to 89

Reserved

CHAPTER 90

ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

90.1(89)	Purpose
90.2(89,261,252J,272D)	Definitions
90.3(89)	Iowa identification numbers
90.4	Reserved
90.5(89)	Preinspection owner or user preparation
90.6(89)	Inspections
90.7(89)	Fees
90.8(89)	Certificate
90.9(89,252J,261)	Special inspector commissions
90.10(89)	Quality reviews, surveys and audits
90.11(89)	Notification of explosion
90.12(89)	Publications available for review

- 90.13(89) Notice prior to installation
- 90.14(89) Temporary boilers

CHAPTER 91

GENERAL REQUIREMENTS FOR ALL OBJECTS

- 91.1(89) Codes adopted by reference
- 91.2(89) Safety appliance
- 91.3(89) Pressure-reducing valves
- 91.4(89) Blowoff equipment
- 91.5(89) Location of discharge piping outlets
- 91.6(89) Pipe, valve, and fitting requirements
- 91.7(89) Electric steam generator
- 91.8(89) Alterations, retrofits and repairs to objects
- 91.9(89) Boiler door latches
- 91.10(89) Clearance
- 91.11(89) Fall protection
- 91.12(89) Exit from rooms containing objects
- 91.13(89) Air and ventilation
- 91.14(89) Condensate return tank
- 91.15(89) Conditions not covered
- 91.16 Reserved
- 91.17(89) English language and U.S. customary units required
- 91.18(89) National Board registration
- 91.19(89) ASME stamp
- 91.20(89) CSD-1 Report

CHAPTER 92

POWER BOILERS

- 92.1(89) Scope
- 92.2(89) Codes adopted by reference
- 92.3 Reserved
- 92.4(89) Maximum allowable working pressure for steel boilers
- 92.5(89) Maximum allowable working pressure and temperature for cast iron headers and mud drums
- 92.6(89) Rivets
- 92.7(89) Safety valves
- 92.8(89) Boiler feeding
- 92.9(89) Water level indicators
- 92.10(89) Pressure gages
- 92.11(89) Steam stop valves
- 92.12(89) Blowoff connection

CHAPTER 93

MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006

- 93.1(89) Scope
- 93.2(89) Codes adopted by reference
- 93.3(89) Maximum working pressure
- 93.4(89) Safety valves
- 93.5(89) Steam stop valves
- 93.6(89) Water gages
- 93.7(89) Feedwater supply
- 93.8(89) Blowoff

- 93.9(89) Washout openings
- 93.10(89) Fixtures and fittings

CHAPTER 94
STEAM HEATING BOILERS, HOT WATER HEATING BOILERS AND
HOT WATER SUPPLY BOILERS

- 94.1(89) Scope
- 94.2(89) Codes adopted by reference
- 94.3(89) General requirements
- 94.4(89) Steam heating boilers installed before July 1, 1960
- 94.5(89) Hot water heating boilers installed before July 1, 1960
- 94.6(89) Hot water supply boilers installed before July 1, 1960

CHAPTER 95
WATER HEATERS

- 95.1(89) Scope
- 95.2(89) Recognized standard
- 95.3(89) Installation
- 95.4(89) Temperature and pressure relief valves
- 95.5(89) Shutoff valves prohibited
- 95.6(89) Thermal expansion
- 95.7(89) Stop valves
- 95.8(89) Carbonization
- 95.9(89) Leaks
- 95.10(89) Flues
- 95.11(89) Tanks
- 95.12(89) Galvanized pipes, valves, and fittings

CHAPTER 96
UNFIRED STEAM PRESSURE VESSELS

- 96.1(89) Codes adopted by reference
- 96.2(89) Objects installed prior to July 1, 1983

CHAPTERS 97 to 109
Reserved

RIGHT TO KNOW

CHAPTER 110
HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW—
GENERAL PROVISIONS

- 110.1(88,89B) Purpose, scope and application
- 110.2(88,89B) Definitions
- 110.3(88,89B) Hazard determination
- 110.4(88,89B) Labels and other forms of warning
- 110.5(88,89B) Material safety data sheets
- 110.6(88,89B) Trade secrets

CHAPTERS 111 to 129
Reserved

CHAPTER 130
COMMUNITY RIGHT TO KNOW

- 130.1(89B) Employer's duty
- 130.2(89B) Records accessibility

130.3(89B)	Application for exemption
130.4(89B)	Burden of proof and criteria
130.5(89B)	Formal ruling
130.6(89B)	Request for information
130.7(89B)	Filing with division
130.8(89B)	Grounds for complaint against the employer
130.9(89B)	Investigation or inspection upon complaint
130.10(89B)	Order to comply
130.11(30,89B)	Relationship to Emergency Planning and Community Right-to-know Act
130.12(30,89B)	Information to county libraries

CHAPTERS 131 to 139

Reserved

CHAPTER 140

PUBLIC SAFETY/EMERGENCY RESPONSE RIGHT TO KNOW

140.1(89B)	Signs required and adoption by reference
140.2(89B)	Employer variance applications
140.3(89B)	Agreement between an employer and fire department
140.4(89B)	Significant amounts
140.5(89B)	Information submitted to local fire department
140.6(89B)	Recommended communications
140.7(89B)	Procedure for noncompliance
140.8(89B)	Notice of noncompliance
140.9(30,89B)	Relationship to Emergency Planning and Community Right-to-know Act

CHAPTERS 141 to 149

Reserved

CONSTRUCTION—REGISTRATION AND BONDING

CHAPTER 150

CONSTRUCTION CONTRACTOR REGISTRATION

150.1(91C)	Scope
150.2(91C)	Definitions
150.3(91C)	Registration required
150.4(91C)	Application
150.5(91C)	Amendments to application
150.6(91C)	Fee
150.7(91C)	Registration number issuance
150.8(91C)	Workers' compensation insurance cancellation notifications
150.9(91C)	Investigations and complaints
150.10(91C)	Citations/penalties and appeal hearings
150.11(91C)	Revocation of registrations and appeal hearings
150.12(91C)	Concurrent actions
150.13(91C)	Out-of-state contractor bonds
150.14(91C)	Project bonds
150.15(91C)	Blanket bonds
150.16(91C)	Bond release

CHAPTERS 151 to 154

Reserved

CHAPTER 155
ASBESTOS REMOVAL AND ENCAPSULATION

- 155.1(88B) Definitions
- 155.2(88B) Permit application procedures
- 155.3(88B) Other asbestos regulations
- 155.4(88B) Asbestos project records
- 155.5(88B) Ten-day notices
- 155.6(88B) License application procedures
- 155.7(88B) Duplicate permits and licenses
- 155.8(17A,88B,252J,261) Denial, suspension and revocation
- 155.9(17A,88B) Contested cases

CHAPTERS 156 to 159
Reserved

CHAPTER 160
EMPLOYER REQUIREMENTS RELATING TO
NON-ENGLISH SPEAKING EMPLOYEES

- 160.1(91E) Purpose and scope
- 160.2(91E) Definitions
- 160.3(91E) Comprehension of employment
- 160.4(91E) Interpreters
- 160.5(91E) Community services referral agent
- 160.6(91E) Active recruitment of non-English speaking employees
- 160.7(91E) Employee's return to location of recruitment
- 160.8(91E) Inspections and investigations
- 160.9(91E) Exemptions
- 160.10(91E) Enforcement and penalties

CHAPTERS 161 to 169
Reserved

WRESTLING AND BOXING

CHAPTER 170
OPERATIONS OF ADVISORY BOARD

- 170.1(90A) Scope
- 170.2(90A) Membership
- 170.3(90A) Time of meetings
- 170.4(90A) Notification of meetings
- 170.5(90A) Attendance and participation by the public
- 170.6(90A) Quorum and voting requirements
- 170.7(90A) Minutes, transcripts and recording of meetings

CHAPTER 171
GRANT APPLICATIONS AND AWARDS

- 171.1(90A) Scope
- 171.2(90A) Application process
- 171.3(90A) Grant process
- 171.4(90A) Evaluation
- 171.5(90A) Termination
- 171.6(90A) Financial management
- 171.7(90A) Adjustments and collections

CHAPTER 172
PROFESSIONAL WRESTLING

172.1(90A)	Limitation of bouts
172.2(90A)	Fall
172.3(90A)	Out-of-bounds
172.4(90A)	Disqualification
172.5(90A)	Failure to break hold
172.6(90A)	Prohibition against hanging on
172.7(90A)	Abusing referee
172.8(90A)	Prohibited materials in ring
172.9(90A)	Contestants' grooming
172.10(90A)	Time between falls
172.11(90A)	Contestants' arrival
172.12(90A)	Contestants of the opposite sex prohibited
172.13(90A)	Separation of boxing and wrestling
172.14(90A)	Public safety
172.15(90A)	Health of wrestler
172.16(90A)	Wrestling outside of ring
172.17(90A)	Advertising
172.18(90A)	Responsibility of promoter

CHAPTER 173
PROFESSIONAL BOXING

173.1(90A)	Limitation of rounds
173.2(90A)	Weight restrictions
173.3(90A)	Age restrictions
173.4(90A)	Injury
173.5(90A)	Knockdown
173.6(90A)	Limitation on number of bouts
173.7(90A)	Contestants' arrival
173.8(90A)	Persons allowed in the ring
173.9(90A)	Protection of hands
173.10(90A)	Scoring
173.11(90A)	Gloves
173.12(90A)	Proper attire
173.13(90A)	Use of substances
173.14(90A)	"Down"
173.15(90A)	Foul
173.16(90A)	Penalties
173.17(90A)	Weight classes
173.18(90A)	Attendance of commissioner
173.19(90A)	Weighing of contestants
173.20(90A)	Officials
173.21(90A)	General requirements
173.22(90A)	Public safety
173.23(90A)	Excessive coaching
173.24(90A)	Abusive language
173.25(90A)	Locker rooms
173.26(90A)	Contracts
173.27(90A)	Ring requirements
173.28(90A)	Ring posts
173.29(90A)	Ropes

173.30(90A)	Ring floor
173.31(90A)	Bell
173.32(90A)	Gloves
173.33(90A)	Referee's duties
173.34(90A)	Chief second
173.35(90A)	Naming referee
173.36(90A)	Reasons for stopping bout
173.37(90A)	Forfeit of purse
173.38(90A)	Inspection for foreign substances
173.39(90A)	Shaking hands
173.40(90A)	Assessing fouls
173.41(90A)	Delaying prohibited
173.42(90A)	Count
173.43(90A)	Intentional foul
173.44(90A)	Use of the ropes
173.45(90A)	Attending ring physician
173.46(90A)	Technical knockout
173.47(90A)	Timekeeper
173.48(90A)	Seconds
173.49(90A)	Requirements for seconds
173.50(90A)	Use of water
173.51(90A)	Stopping the fight
173.52(90A)	Removing objects from ring
173.53(90A)	Decision
173.54(90A)	Blood-borne disease testing

CHAPTER 174
ELIMINATION TOURNAMENTS

174.1(90A)	Purpose and scope
174.2(90A)	Bouts, rounds and rest periods
174.3(90A)	Protective equipment
174.4(90A)	Weight restrictions
174.5(90A)	Down
174.6(90A)	Suspension
174.7(90A)	Training requirements
174.8(90A)	Judges
174.9(90A)	Public safety
174.10(90A)	Impartiality of timekeeper
174.11(90A)	Ringside
174.12(90A)	Physical examination—female contestants
174.13(90A)	Contestants of opposite sex prohibited

CHAPTER 175
AMATEUR BOXING

175.1(90A)	Purpose
175.2(90A)	Application
175.3(90A)	Verification
175.4(90A)	Forms

CHAPTER 176
PROFESSIONAL KICKBOXING

176.1(90A)	Scope and purpose
176.2(90A)	WKA rules adopted by reference

- 176.3(90A) Professional boxing rules adopted by reference
 176.4(90A) Additional provisions

CHAPTER 177

PROFESSIONAL SHOOT FIGHTING

- 177.1(90A) Scope and purpose
 177.2(90A) Responsibilities of promoter
 177.3(90A) Equipment specifications
 177.4(90A) Event
 177.5(90A) Contestants
 177.6(90A) Procedural rules
 177.7(90A) Decision
 177.8(90A) Forfeit of purse
 177.9 Reserved
 177.10(90A) Health insurance

CHAPTERS 178 to 214

Reserved

MINIMUM WAGE

CHAPTER 215

MINIMUM WAGE SCOPE AND COVERAGE

- 215.1(91D) Requirement to pay
 215.2(91D) Initial employment wage rate
 215.3(91D) Definitions
 215.4(91D) Exceptions
 215.5(91D) Interpretative guidelines

CHAPTER 216

RECORDS TO BE KEPT BY EMPLOYERS

- 216.1(91D) Form of records—scope of rules
 216.2(91D) Employees subject to minimum wage
 216.3(91D) Bona fide executive, administrative, and professional employees (including academic administrative personnel and teachers in elementary or secondary schools), and outside sales employees employed pursuant to 875—subrule 215.4(1)
 216.4(91D) Posting of notices
 216.5(91D) Records to be preserved three years
 216.6(91D) Records to be preserved two years
 216.7(91D) Place for keeping records and their availability for inspection
 216.8(91D) Computations and reports
 216.9(91D) Petitions for exceptions
 216.10 Reserved

EMPLOYEES SUBJECT TO MISCELLANEOUS EXEMPTIONS

- 216.11 to 216.26 Reserved
 216.27(91D) Board, lodging, or other facilities
 216.28(91D) Tipped employees
 216.29 Reserved
 216.30(91D) Learners, apprentices, messengers, students, or persons with a disability employed under special certificates as provided in the federal Fair Labor Standards Act, 29 U.S.C. 214
 216.31(91D) Industrial homeworkers

- 216.32 Reserved
 216.33(91D) Employees employed in agriculture pursuant to 875—subrule 215.4(6)

CHAPTER 217
 WAGE PAYMENTS

- 217.1 Reserved
 217.2(91D) Purpose and scope
 217.3(91D) “Reasonable cost”
 217.4(91D) Determinations of “reasonable cost”
 217.5(91D) Determinations of “fair value”
 217.6(91D) Effects of collective bargaining agreements
 217.7(91D) Request for review of tip credit
 217.8 to 217.24 Reserved
 217.25(91D) Introductory statement
 217.26 Reserved
 217.27(91D) Payment in cash or its equivalent required
 217.28 Reserved
 217.29(91D) Board, lodging, or other facilities
 217.30(91D) “Furnished” to the employee
 217.31(91D) “Customarily” furnished
 217.32(91D) “Other facilities”
 217.33 and 217.34 Reserved
 217.35(91D) “Free and clear” payment; “kickbacks”
 217.36(91D) Payment where additions or deductions are involved
 217.37(91D) Offsets
 217.38(91D) Amounts deducted for taxes
 217.39(91D) Payments to third persons pursuant to court order
 217.40(91D) Payments to employee’s assignee
 217.41 to 217.49 Reserved
 217.50(91D) Payments to tipped employees
 217.51(91D) Conditions for taking tip credits in making wage payments
 217.52(91D) General characteristics of “tips”
 217.53(91D) Payments which constitute tips
 217.54(91D) Tip pooling
 217.55(91D) Examples of amounts not received as tips
 217.56(91D) “More than \$30 a month in tips”
 217.57(91D) Receiving the minimum amount “customarily and regularly”
 217.58(91D) Initial and terminal months
 217.59(91D) The tip wage credit

CHAPTER 218

EMPLOYEES EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR
 PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY
 OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR
 SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESPERSON

- 218.1(91D) Executive
 218.2(91D) Administrative
 218.3(91D) Professional
 218.4 Reserved
 218.5(91D) Outside salesperson
 218.6(91D) Special provision for motion picture producing industry
 218.7 to 218.100 Reserved

BONA FIDE EXECUTIVE CAPACITY

218.101(91D)	General
218.102(91D)	Management
218.103(91D)	Primary duty
218.104(91D)	Department or subdivision
218.105(91D)	Two or more other employees
218.106(91D)	Authority to hire or fire
218.107(91D)	Discretionary powers
218.108(91D)	Work directly and closely related
218.109(91D)	Emergencies
218.110(91D)	Occasional tasks
218.111(91D)	Nonexempt work generally
218.112(91D)	Percentage limitations on nonexempt work
218.113(91D)	Sole-charge exception
218.114(91D)	Exception for owners of 20 percent interest
218.115(91D)	Working supervisor
218.116(91D)	Trainees, executive
218.117(91D)	Amount of salary required
218.118(91D)	Salary basis
218.119(91D)	Special proviso for high-salaried executives
218.120 to 218.200	Reserved

BONA FIDE ADMINISTRATIVE CAPACITY

218.201(91D)	Types of administrative employees
218.202	Reserved
218.203(91D)	Nonmanual work
218.204	Reserved
218.205(91D)	Directly related to management policies or general business operations
218.206(91D)	Primary duty
218.207(91D)	Discretion and independent judgment
218.208	Reserved
218.209(91D)	Percentage limitations on nonexempt work
218.210(91D)	Trainees, administrative
218.211(91D)	Amount of salary or fees required
218.212(91D)	Salary basis
218.213(91D)	Fee basis
218.214(91D)	Special proviso for high-salaried administrative employees
218.215(91D)	Elementary or secondary schools and other educational establishments and institutions
218.216 to 218.300	Reserved

BONA FIDE PROFESSIONAL CAPACITY

218.301(91D)	General
218.302(91D)	Learned professions
218.303(91D)	Artistic professions
218.304(91D)	Primary duty
218.305(91D)	Discretion and judgment
218.306(91D)	Predominantly intellectual and varied
218.307(91D)	Essential part of and necessarily incident to
218.308	Reserved
218.309(91D)	Twenty percent nonexempt work limitation
218.310(91D)	Trainees, professional
218.311(91D)	Amount of salary or fees required

218.312(91D)	Salary basis
218.313(91D)	Fee basis
218.314(91D)	Exception for physicians, lawyers, and teachers
218.315(91D)	Special proviso for high-salaried professional employees
218.316 to 218.499	Reserved

OUTSIDE SALESPERSON

218.500(91D)	Definition of "outside salesperson"
218.501(91D)	Making sales or obtaining orders
218.502(91D)	Away from employer's place of business
218.503(91D)	Incidental to and in conjunction with sales work
218.504(91D)	Promotion work
218.505(91D)	Driver salespersons
218.506(91D)	Nonexempt work generally
218.507(91D)	Twenty percent limitation on nonexempt work
218.508(91D)	Trainees, outside salespersons
218.509 to 218.599	Reserved

SPECIAL PROBLEMS

218.600(91D)	Combination exemptions
218.601(91D)	Special provision for motion picture producing industry
218.602(91D)	Special proviso concerning executive and administrative employees in multistore retailing operations

CHAPTER 219

APPLICATION OF THE FAIR LABOR STANDARDS ACT
TO DOMESTIC SERVICE

219.1	Reserved
219.2(91D)	Purpose and scope
219.3(91D)	Domestic service employment
219.4(91D)	Babysitting services
219.5(91D)	Casual basis
219.6(91D)	Companionship services for the aged or infirm
219.7 to 219.99	Reserved
219.100(91D)	Application of minimum wage and overtime provisions
219.101(91D)	Domestic service employment
219.102(91D)	Live-in domestic service employees
219.103(91D)	Babysitting services in general
219.104(91D)	Babysitting services performed on a casual basis
219.105(91D)	Individuals performing babysitting services in their own homes
219.106(91D)	Companionship services for the aged or infirm
219.107(91D)	Yard maintenance workers
219.108	Reserved
219.109(91D)	Third-party employment
219.110(91D)	Record-keeping requirements

CHAPTER 220

APPLICATION OF THE FAIR LABOR STANDARDS ACT
TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

220.1(91D)	Definitions
220.2(91D)	Purpose and scope
220.3 to 220.10	Reserved
220.11(91D)	Exclusion for elected officials and their appointees
220.12(91D)	Exclusion for employees of legislative branches

220.13 to 220.19 Reserved
 220.20(91D) Introduction
 220.21(91D) Compensatory time and compensatory time off
 220.22 to 220.26 Reserved
 220.27(91D) Payments for unused compensatory time
 220.28(91D) Other compensatory time
 220.29 Reserved

OTHER EXEMPTIONS

220.30 Reserved
 220.31(91D) Substitution—federal Fair Labor Standards Act, 29 U.S.C. 207(p)(3)
 220.32 to 220.49 Reserved

RECORD KEEPING

220.50(91D) Records to be kept of compensatory time
 220.51 to 220.99 Reserved

VOLUNTEERS

220.100(91D) General
 220.101(91D) “Volunteer” defined
 220.102(91D) Employment by the same public agency
 220.103(91D) “Same type of services” defined
 220.104(91D) Private individuals who volunteer services to public agencies
 220.105(91D) Mutual aid agreements
 220.106(91D) Payment of expenses, benefits, or fees
 220.107 to 220.199 Reserved

FIRE PROTECTION AND LAW ENFORCEMENT
EMPLOYEES OF PUBLIC AGENCIES

220.200 to 220.220 Reserved
 220.221(91D) Compensable hours of work
 220.222(91D) Sleep time
 220.223(91D) Meal time
 220.224 Reserved
 220.225(91D) Early relief
 220.226(91D) Training time

CHAPTER 32
CHILD LABOR

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

[Prior to 10/21/98, see 347—Ch 32]

875—32.1(92) Definitions.

“Filing date” means the date a document is postmarked by the U.S. Postal Service, if the document is filed by mailing and the U.S. postmark is legible. For a document filed via facsimile transmission, *“filing date”* means the date the document is transmitted. For any other document, *“filing date”* means the date the document is received by the labor commissioner.

“Issuing officer” means a person with a statutory obligation to issue work permits, migrant labor permits, street trade permits, and certificates of age. The school superintendent and the designated employees of the department of workforce development are issuing officers.

“Migrant labor permit” means an authorization to work as described in Iowa Code section 92.12.

“Occupation or business operated by the child’s parents,” as used in Iowa Code section 92.17(4), means a business operated by the child’s parent where the parent has control of the day-to-day operation of the business and is on the premises during the hours of the child’s employment.

“Part-time,” as used in Iowa Code section 92.17(3), means one-half of the maximum hours allowed under Iowa Code chapter 92.

“Part-time, occasional, or volunteer work,” as used in Iowa Code section 92.17(1), means work for which compensation is not usually given.

“Serious injury or illness” means an illness or injury requiring medical attention beyond first aid.

“Street trade” means an occupation performed on any street including but not limited to newspaper sales, newspaper delivery, and door-to-door sales.

“Street trades permit” means an authorization as described in Iowa Code section 92.2 to perform a street trade.

“Superintendent,” in a public school, means the superintendent or the superintendent’s designee. In a private school, *“superintendent”* means the superintendent, or another person with comparable responsibilities, or that person’s designee.

“Week,” as used in Iowa Code section 92.7, means Sunday through Saturday.

“Working days,” as used in rule 875—32.12(92), means Mondays through Fridays but shall not include Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

“Work permit” means an authorization to work as described in Iowa Code section 92.10.

This rule is intended to implement Iowa Code chapter 92 as amended by 2009 Iowa Acts, House File 618.

[ARC 8300B, IAB 11/18/09, effective 1/1/10]

875—32.2(92) Permits and certificates of age.

32.2(1) *When permits and certificates of age are required.* A street trades permit is required for a child who is at least 10 years of age, who is less than 16 years of age, and who desires to work in a street trade. A migrant labor permit is required for a child who is at least 12 years of age, who is less than 16 years of age, and who desires to perform migratory labor as defined in Iowa Code section 92.18. A work permit is required for a child who is 14 or 15 years of age and who desires to perform work other than street trades and migratory labor. An employer may require a certificate of age for a child 16 or 17 years of age.

32.2(2) *How permits and certificates of age are issued.* The Iowa Child Labor Form, form number 62-2203, shall be completed for a street trade permit, a certificate of age, a migrant labor permit, or a work permit. The following procedure shall be used for completing the form:

a. After accepting an offer of employment and before beginning work, an applicant shall obtain an appropriate document establishing the applicant’s age and shall personally take the document to the local superintendent or a department of workforce development office. Locations of workforce development offices are available at www.iowaworkforce.org. The document establishing age shall be:

(5) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

c. Definitions.

“Explosives” and *“articles containing explosive components”* means and includes ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR Parts 71-78, in effect July 1, 1987).

“Nonexplosive area” means an area where none of the work performed in the area involves the handling or use of explosives; the area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings; the area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet the criteria of this definition.

“Plant or establishment manufacturing or storing explosives or articles containing explosive components” means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

This subrule is intended to implement Iowa Code section 92.8(1).

32.8(2) *“Occupations of motor vehicle driver and helper”* means occupations of motor vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation.

a. The following exemption is for occupations of motor vehicle driver and helper:

(1) Incidental and occasional driving where the operation of automobiles or trucks does not exceed 6,000 pounds gross vehicle weight if the driving is restricted to daylight hours; the operation is only occasional and incidental to the child’s employment; the child holds a state license valid for the type of driving involved in the job which is to be performed and has completed a state-approved driver education course; the vehicle is equipped with a seat belt or similar device for the driver and for each helper; and the employer has instructed each child that the belts or other devices must be used. This exemption shall not be applicable to any occupation of a motor vehicle driver which involves the towing of vehicles.

(2) Reserved.

b. Definitions.

“Driver” means any individual who, in the course of employment, drives a motor vehicle at any time.

“Gross vehicle weight” includes the truck chassis with lubricants, water and full tank or tanks of fuel, plus the weight of the cab or driver’s compartment, body and special chassis, and body equipment and payload.

“Motor vehicle” means any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

“Outside helper” means any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

This subrule is intended to implement Iowa Code section 92.8(2).

32.8(3) *“Occupations involved in logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill”* means all occupations with the following exceptions:

a. Exceptions applying to logging:

- (1) Work in offices or in repair or maintenance shops.
- (2) Work in the construction, operation, repair or maintenance of living and administrative quarters or logging camps.
- (3) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads,

piling and burning slash, maintaining firefighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrol person away from the actual logging operations. This exception shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(4) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations prohibited by this subrule.

(5) Work in the feeding or care of animals.

b. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill:

(1) Work in offices or in repair or maintenance shops.

(2) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(3) Pulling lumber from the dry chain.

(4) Cleanup in the lumberyard.

(5) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.

(6) Clerical work in yards or shipping sheds, such as done by order persons, tally persons, and shipping clerks.

(7) Cleanup work outside shake and shingle mills, except when the mill is in operation.

(8) Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.

(9) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(10) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury. The exceptions in paragraph "b," subparagraphs (1) to (10), do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained and work which entails entering the sawmill building.

Definitions.

"All occupations in logging" means all work performed in connection with the felling of timbers; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of these products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency firefighting.

"All occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill" means all work performed in or about any mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of the mills and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

This subrule is intended to implement Iowa Code section 92.8(3).

32.8(4) *"Occupations involved in the operation of power-driven woodworking machines"* means operating power-driven woodworking machines including supervision or controlling the operation of the machines, feeding material into the machines, and helping the operator to feed material into the machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding. Also included are occupations of setting up, adjusting, repairing, oiling or cleaning

power-driven woodworking machines and the operations of off-bearing from circular saws and from guillotine-action veneer clippers.

Definitions.

“Off-bearing” means the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this subrule include:

a. The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expansion roller, and

b. The following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation; the carrying, moving or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling or loading of materials.

“Power-driven woodworking machines” means all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood or veneer.

This subrule is intended to implement Iowa Code section 92.8(4).

32.8(5) *“Occupations involving exposure to radioactive substances and to ionizing radiations”* means occupation in any workroom in which radium is stored or used in the manufacture of self-luminous compound; self-luminous compound is made, processed or packaged; self-luminous compound is stored, used or worked upon; incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; and other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled *“Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure,”* June 5, 1959.

Also included is any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

Definitions.

“Ionizing radiations” means alpha and beta particles, electrons, protons, neutrons, gamma and X-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

“Self-luminous compound” means any mixture of phosphorescent material and radium, mesothorium or other radioactive element.

“Workroom” means the entire area bounded by walls of solid material and extending from floor to ceiling.

This subrule is intended to implement Iowa Code section 92.8(5).

32.8(6) *“Occupations involved in the operation of elevators and other power-driven hoisting apparatus”* means:

a. Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one-ton capacity.

b. Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

c. Work of assisting in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

d. Exception. Iowa Code section 92.8(6) shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a

device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

e. Definitions.

“*Automatic elevator*” means any passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by push buttons in a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

“*Automatic signal operation elevator*” means an elevator which is started in response to the operation of a switch (such as a lever or push button) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

“*Crane*” means any power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.

“*Derrick*” means any power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

“*Elevator*” means any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines), but shall not include dumbwaiters.

“*High-lift truck*” means any power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.

“*Hoist*” means any power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term includes all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

“*Manlift*” means any device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; the belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

This subrule is intended to implement Iowa Code section 92.8(6).

32.8(7) “*Occupations involved in the operation of power-driven metal forming, punching and shearing machines*” means occupations of operator or helper on the following power-driven metal forming, punching, and shearing machines.

a. All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

b. All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

c. All bending machines, such as apron brakes and press brakes.

d. All hammering machines, such as drop hammers and power hammers.

e. All shearing machines, such as guillotine or squaring shears, alligator shears and rotary shears. Also included are the occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

“Forming, punching and shearing machines” means power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls or knives which are mounted on rams, plungers or other moving parts. Types of forming, punching, and shearing machines enumerated in this subrule are the machines to which the designation is by custom applied.

“Helper” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove them from the machine.

“Operator” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

This subrule is intended to implement Iowa Code section 92.8(7).

32.8(8) *“Occupations in connection with mining”* means all work performed underground in mines and quarries; underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where the operations are performed as a part of a manufacturing process.

The term “occupations in connection with mining” shall not include:

a. Work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded and further processed, or plants manufacturing clay, glass or ceramic products.

b. Work performed in connection with petroleum production, in natural gas production, or in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

c. Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.

d. Work in the operation and maintenance of living quarters.

e. Work outside the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property such as clearing brush and digging drainage ditches.

f. Work of track crews in the building and maintaining of sections of railroad track located in those areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and place that the building and maintenance work is being done.

g. Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.

h. Work in metal mills other than in mercury-recovery mills or mills using the cyanide process involving the operation of jigs, sludge tables, flotation cells, or drier-filters; hand-sorting at picking table or picking belts; or general cleanup.

Nothing in this subrule shall be construed to permit any employment of minors in any other occupation otherwise prohibited by Iowa Code chapter 92.

This subrule is intended to implement Iowa Code section 92.8(8).

32.8(9) *“Occupations in or about slaughtering and meat packing establishments and rendering plants”* means:

a. All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand truckers and similar occupations which require entering workrooms or workplaces infrequently and for short periods of time.

b. All occupations involved in the recovery of lard and oils, except packaging and shipping of the products and the operation of lard-roll machines.

c. All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

d. All occupations involved in the operation or feeding of the following power-driven meat processing machines, including the occupations of setting-up, adjusting, repairing, oiling, or cleaning the machines regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.):

1. Meat patty forming machines, meat and bone cutting saws, knives (except bacon-slicing machines), head splitters, and guillotine cutters;

2. Snout pullers and jaw pullers;

3. Skinning machines;

4. Horizontal rotary washing machines;

5. Casing-cleaning machines such as crushing, stripping, and finishing machines;

6. Grinding, mixing, chopping, and hashing machines; and

7. Presses (except belly-rolling machines).

e. All boning occupations.

f. All occupations involving the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

g. All occupations involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

Definitions.

“Boning occupation” means the removal of bones from meat cuts. It does not include cutting, scraping or trimming meat from cuts containing bones.

“Curing cellar” means the workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include the workroom or workplace where meats are smoked.

“Hide cellar” means the workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

“Killing floor” means the workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

“Rendering plants” means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients and similar products.

“Slaughtering and meat packing establishments” means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses, poultry, rabbits or small game are killed, processed or butchered and establishments which manufacture or process meat products or sausage casings from these animals.

This subrule is intended to implement Iowa Code section 92.8(9).

32.8(10) *“Occupations involved in the operation of certain power-driven bakery machines”* means the occupations of operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and the occupations of setting up or adjusting a cookie or cracker machine.

This subrule is intended to implement Iowa Code section 92.8(10).

32.8(11) *“Occupations involved in the operations of paper-products machines”* means operating or assisting to operate any of the following power-driven paper-products machines and includes:

a. Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

b. Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

c. The occupations of setting up, adjusting, repairing, oiling, or cleaning the machines in paragraphs “a” and “b” of this subrule including those which do not involve hand feeding.

Definitions.

“*Operating or assisting to operate*” means all work which involves starting or stopping a machine covered by this subrule, placing materials into or removing them from the machine, or any other work directly involved in operating the machine.

“*Paper-products machine*” means power-driven machines used in:

1. The remanufacture or conversion of paper or pulp into a finished product, including the preparation of materials for recycling.

2. The preparation of materials for disposal. The term applies to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

This subrule is intended to implement Iowa Code section 92.8(11).

32.8(12) “*Occupations involved in the manufacture of brick*” means the manufacture of brick, tile and related products and includes the manufacture of clay construction products and of silica refractory products and includes:

a. All work in or about establishments in which clay construction products are manufactured, except work in storage and shippings; work in offices, laboratories, and storerooms; and work in the drying departments of plants manufacturing sewer pipe.

b. All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

c. Nothing in this subrule shall be construed to permit any employment of minors in any other occupation otherwise prohibited by Iowa Code chapter 92.

Definitions.

“*Clay construction products*” means brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. It does not include nonstructural-bearing clay products such as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor nonclay construction products such as sand-lime brick, glass brick, or nonclay refractories.

“*Silica brick or other silica refractories*” means refractory products produced from raw materials containing free silica as its main constituent.

This subrule is intended to implement Iowa Code section 92.8(12).

32.8(13) “*Occupations involved in the operation of circular saws, band saws, and guillotine shears*” means:

a. Occupations of operator of or helper on power-driven fixed or portable circular saws, band saws, and guillotine shears except machines equipped with full automatic feed and ejection.

b. The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, or guillotine shears.

Definitions.

“*Band saw*” means a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

“*Circular saw*” means a machine equipped with an endless steel disc and having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

“*Guillotine shear*” means a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

“*Helper*” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove them from the machine.

“Machines equipped with full automatic feed and ejection” means machines covered by this subrule which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any body part in the point-of-operation area.

“Operator” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing them from the machine, or any other function directly involved in the operation of the machine.

This subrule is intended to implement Iowa Code section 92.8(13).

32.8(14) *“Wrecking, demolition and shipbreaking operations”* means all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

This subrule is intended to implement Iowa Code section 92.8(14).

32.8(15) *“Roofing operations”* means all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term also includes all work performed in connection with the installation of roofs, including related metal work such as flashing; and alterations, additions, maintenance and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment or similar appliances attached to roofs.

This subrule is intended to implement Iowa Code section 92.8(15).

32.8(16) *“Excavation occupations”* means all occupations involved with:

a. Excavating, working in, or backfilling (refilling) trenches, except manually excavated or manually backfilling trenches that do not exceed four feet in depth at any point or working in trenches that do not exceed four feet in depth at any point.

b. Excavating for buildings or other structures or working in the excavations, except manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, working in an excavation not exceeding four feet in depth, or working in an excavation where the side walls are shored or sloped to the angle or repose.

c. Working within tunnels prior to the completion of all driving and shoring operations.

d. Working within shafts prior to the completion of all sinking and shoring operations.

This subrule is intended to implement Iowa Code section 92.8(16).

32.8(17) to 32.8(20) Reserved.

32.8(21) Occupations deemed by the labor commissioner to be hazardous to life or limb as provided by Iowa Code section 92.8(21) include the following:

a. Occupations involved in the operation of power cutters on corn detasseling machines.

b. Occupations involved in the driving of power-driven detasseling machines provided that the driver has a valid driver’s license or a certificate issued by the Federal Extension Service showing that the driver has completed a 4-H farm and machinery program.

This subrule is intended to implement Iowa Code section 92.8(21).

This rule is intended to implement Iowa Code section 92.8.

875—32.9 and 32.10 Reserved.

875—32.11(92) Civil penalty calculation. The labor commissioner shall follow the provisions of this rule when calculating civil penalties for violations of this chapter or Iowa Code chapter 92 as amended by 2009 Iowa Acts, House File 618. The labor commissioner may refer a violation to the appropriate authority for criminal prosecution in addition to assessing a civil penalty.

32.11(1) Counting the number of violations. Each item of inaccurate information on each permit shall be a separate violation. Each day that each child works at a time not listed on the permit, works on a day not listed on the permit, works at an occupation not listed on the permit, works without a permit, works on a prohibited day, works at a prohibited time, or works in a prohibited occupation shall be a separate violation for the purpose of penalty calculation.

32.11(2) Determining whether a violation is a repeat violation. The higher penalty amounts outlined in subrules 32.11(3) through 32.11(5) for repeat instances may be assessed by the labor commissioner if citations regarding the earlier instance or instances are final action and occurred less than five years before.

32.11(3) Permit violations.

a. Inaccurate information on a street trades permit, migrant labor permit, or work permit. Insignificant misspellings and typographical errors shall not be considered inaccurate information. A repeated instance of inaccurate information may result in a higher penalty even if the earlier instance or instances of inaccurate information involved a different fact. If a child is killed while working and the child's permit lists the wrong age for the child, the civil penalty shall be \$10,000 for each instance. Otherwise, the civil penalties for inaccurate information on the applicable permit are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	Warning letter
Second	\$100 civil penalty
Third	\$200 civil penalty
Fourth	\$500 civil penalty
Fifth	\$1,000 civil penalty
Sixth	\$2,500 civil penalty
Seventh	\$5,000 civil penalty
Eighth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

b. Working outside a permit. When a child is working outside the days, times or occupations listed on the street trades permit, migrant labor permit, or work permit, and the day, time or occupation the child is working is also prohibited, the labor commissioner may assess civil penalties under this subrule and subrule 32.11(4) or subrule 32.11(5) as applicable. If a child is killed while working outside the days, times or occupations listed on the applicable permit, the civil penalty shall be \$10,000 for each instance. Otherwise, the civil penalties for working outside the days, times or occupations listed on the applicable permit are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$100 civil penalty
Second	\$250 civil penalty
Third	\$500 civil penalty
Fourth	\$1,000 civil penalty
Fifth	\$2,500 civil penalty
Sixth	\$5,000 civil penalty
Seventh	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

c. Working without a permit. When a child is working without a required permit, and the day, time or occupation the child is working is also prohibited, the labor commissioner may assess civil penalties under this subrule and subrule 32.11(4) or subrule 32.11(5) as applicable. If a child is killed while working without a required permit, the civil penalty shall be \$10,000 for each instance. Otherwise, the civil penalties for working without a required permit are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$250 civil penalty
Second	\$500 civil penalty
Third	\$1,000 civil penalty
Fourth	\$2,500 civil penalty
Fifth	\$5,000 civil penalty
Sixth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

32.11(4) Time violations. If a child is killed while working on a prohibited day or at a prohibited time, the civil penalty shall be \$10,000 for each instance. Otherwise, the penalties set forth in this subrule shall be applied.

a. The civil penalties for working less than 15 minutes before or after an allowed time are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	Warning letter
Second	\$100 civil penalty
Third	\$200 civil penalty
Fourth	\$500 civil penalty
Fifth	\$1,000 civil penalty
Sixth	\$2,500 civil penalty
Seventh	\$5,000 civil penalty
Eighth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

b. The civil penalties for working on a prohibited day or for working 15 minutes or more before or after an allowed time are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$100 civil penalty
Second	\$250 civil penalty
Third	\$500 civil penalty
Fourth	\$1,000 civil penalty
Fifth	\$2,500 civil penalty
Sixth	\$5,000 civil penalty
Seventh	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

32.11(5) Occupation violations.

a. If no serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$500 civil penalty
Second	\$1,500 civil penalty
Third	\$2,500 civil penalty
Fourth	\$5,000 civil penalty
Fifth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

b. If a nonfatal but serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$2,500 civil penalty
Second	\$5,000 civil penalty
Each additional instance	\$10,000 civil penalty

c. If a fatality results from the work, the civil penalty for allowing or permitting a child to perform prohibited work is \$10,000 for each instance.

32.11(6) *Penalty reduction factors.* Except for violations related to the death of a child while working, the labor commissioner shall reduce the penalty calculated pursuant to subrules 32.11(1) through 32.11(5) by the appropriate penalty reduction percentages set forth in this subrule. However, if the labor commissioner requests information relevant to the penalty assessment and the employer does not provide responsive information, the labor commissioner shall not reduce the penalty.

a. *Penalty reduction for size of business.* The labor commissioner shall reduce a penalty by 25 percent if the employer has 25 or fewer employees. The labor commissioner shall reduce the penalty amount by 15 percent if the employer has 26 to 100 employees. The labor commissioner shall reduce the penalty amount by 5 percent if the employer has 101 to 250 employees.

b. *Penalty reduction for good faith.* The labor commissioner may reduce a penalty by 15 percent based upon evidence that the employer made a good faith attempt to comply with the requirements. If at any time the labor commissioner warned an employer in writing about a prohibited practice and a civil penalty is being assessed against the same employer for repeating the practice, the labor commissioner shall not reduce the penalty based on good faith.

c. *Penalty reduction for history.* The labor commissioner shall reduce a penalty by 10 percent if the labor commissioner has not assessed a civil penalty under this chapter within the past five years. If the labor commissioner has assessed a civil penalty under this chapter in the past five years but the civil penalty has not reached judicial or administrative finality, the civil penalty shall be reduced by 10 percent.

This rule is intended to implement Iowa Code section 92.22 as amended by 2009 Iowa Acts, House File 618.

[ARC 8300B, IAB 11/18/09, effective 1/1/10]

875—32.12(92) Civil penalty procedures.

32.12(1) *Notice of civil penalty.* The commissioner shall serve a notice of proposed civil penalty by certified mail or in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure. The notice shall include the following:

- a. A statement that the notice proposes a civil penalty assessment for violation of child labor laws.
- b. Descriptions of the alleged violations including the provisions allegedly violated, the number of violations, and the proposed penalties.
- c. A statement that the employer has the right to request a hearing by filing a notice of contest with the labor commissioner within 15 working days from the receipt of the notice of proposed civil penalty

and that if a notice of contest is not timely filed, the proposed civil penalty will become final agency action.

d. A reference to the applicable procedural provisions.

32.12(2) Notice of contest. The civil penalty proposed by the labor commissioner shall become final agency action if the employer does not timely file a notice of contest. The filing date for a timely notice of contest shall be within 15 working days of the date the notice of proposed civil penalty was received by the employer. The notice of contest shall include the name, address, and telephone number of the employer's representative. If a notice of contest is filed by fax, the original shall be mailed to the labor commissioner.

32.12(3) Contested case procedures. Contested case procedures are set forth in 875—Chapter 1 and Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 92.22 as amended by 2009 Iowa Acts, House File 618.

[ARC 8300B, IAB 11/18/09, effective 1/1/10]

875—32.13 to 32.16 Reserved.

875—32.17(92) Definitions.

“Occupation or business operated by the child's parents” as used in Iowa Code section 92.17(4) means those operated by the child's parent where the parent has control of the day-to-day operation of the business and is on the premises during the hours of the child's employment.

“Part-time” as used in Iowa Code section 92.17(3) means one-half of the maximum hours allowed under Iowa Code chapter 92.

“Part-time, occasional, or volunteer work” as used in Iowa Code section 92.17(1) means work for which compensation is not usually given.

This rule is intended to implement Iowa Code section 92.17.

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BOILERS AND PRESSURE VESSELS
CHAPTER 80
BOILER AND PRESSURE VESSEL BOARD
ADMINISTRATIVE AND REGULATORY AUTHORITY

875—80.1(89) Definitions.

“Board” means the boiler and pressure vessel board.

“Board office” means the offices of the division of labor services of the department of workforce development.

“Commissioner” means the labor commissioner of the state of Iowa.

875—80.2(21,89) Purpose of board. The purpose of the board is to perform statutory duties pursuant to Iowa Code chapter 89. The mission of the board is to protect the public health, safety and welfare by formulating definitions and rules requirements relating to the safe and proper installation, repair, maintenance, alteration, use, and operation of boilers and pressure vessels in the state. The responsibilities of the board include, but are not limited to:

80.2(1) Adopting rules necessary to administer the duties of the board.

80.2(2) Hearing and deciding appeals concerning notices of defect and inspection reports issued by the commissioner that relate to the installation, operation, and maintenance of boilers and pressure vessels in the state.

875—80.3(89) Organization of board.

80.3(1) The board shall be composed of the commissioner or the commissioner’s designee and eight additional members appointed by the governor and confirmed by the senate.

80.3(2) The eight appointed members of the board shall include:

a. One member who is a special inspector and who is employed by an insurance company and commissioned to inspect boilers and pressure vessels.

b. One member from a certified employee organization who shall represent steamfitters.

c. Two members who are mechanical engineers who regularly practice in the area of boilers and pressure vessels.

d. One member who is a boiler and pressure vessel distributor.

e. One member who represents boiler and pressure vessel manufacturers.

f. One member who is a mechanical contractor engaged in the business of installation, renovation, and repair of boilers and pressure vessels.

g. One member from a certified employee organization who shall represent boilermakers.

80.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after July 1 of each year. Neither the commissioner nor the commissioner’s designee may serve as chairperson. The chairperson shall, when present, preside at meetings, appoint committees, and perform all duties and exercise all powers of the chairperson. The vice chairperson shall, in the absence or incapacity of the chairperson, perform all duties and exercise all powers of the chairperson.

80.3(4) The board has the authority to:

a. Decide appeals concerning notices of defect or inspection reports issued by the commissioner pursuant to Iowa Code chapter 89.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. The board shall cite the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Perform any other function authorized by a provision of law.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—80.4(21,89) Public meetings.

80.4(1) The board shall hold at least one meeting each calendar quarter.

80.4(2) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order.

80.4(3) The chairperson or the chairperson's designee shall prepare an agenda listing all matters to be discussed at the meeting.

80.4(4) A majority of the members of the board shall constitute a quorum, and all final motions and actions must receive a majority of a quorum vote.

80.4(5) Members of the public may be present during board meetings unless the board votes to hold a closed session. The dates and locations of board meetings may be obtained from the division of labor's Web site or directly from the board office.

80.4(6) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise. Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

80.4(7) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

80.4(8) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

875—80.5(89) Official communications. All official communications, including submissions and requests, shall be addressed to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code chapters 21 and 89.

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed ARC 8283B (Notice ARC 8082B, IAB 8/26/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 90
ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Chs 200, 202]

875—90.1(89) Purpose. These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89.

875—90.2(89,261,252J,272D) Definitions. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Alteration*” means a change in a boiler or pressure vessel that substantially alters the original design requiring consideration of the effect of the change on the original design. It is not intended that the addition of nozzles smaller than an unreinforced opening size will be considered an alteration.

“*ANSI/ASME CSD-1*” means Control and Safety Devices for Automatically Fired Boilers.

“*ASME*” means the American Society of Mechanical Engineers.

“*Authorized inspector*” means a special inspector or an inspector of boilers and pressure vessels employed by the division.

“*Blowoff valve*” means all blowoff valves, drain valves, and pipe connections.

“*Boiler*” means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

“*BSI*” means British Standards Institute.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;
2. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or
3. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

“*CFR*” means Code of Federal Regulations.

“*Construction or installation code*” means the applicable recognized national or international standard for construction or installation in effect at the time of installation such as ASME, DIN, BSI, JIS or CSA.

“*CSA*” means the Canadian Standards Association, CSA B51, Boiler Pressure Vessel, and Pressure Piping Code.

“*DIN*” means German Institute of Standards.

“*Division*” means the division of labor services, unless another meaning is clear from the context.

“*Electric boilers*” means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

“*External inspection*” means as complete an examination as can be reasonably made of the external surfaces and safety devices while the boiler or pressure vessel is in operation.

“*High temperature water boiler*” means a water boiler intended for operations at pressures in excess of 160 psig or temperatures in excess of 250 degrees F.

“*Hot water heating boiler*” means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees F at the boiler outlet.

“*Hot water supply boiler*” means a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 250 degrees F.

“*Internal inspection*” means as complete an examination as can be reasonably made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and while manhole plates, handhole plates or other inspection opening closures are removed as required by the inspector.

“*ISO*” means International Standards Organization.

“*JIS*” means Japanese Industrial Standards.

“*Labor commissioner*” means the labor commissioner or the commissioner’s designee.

“*Lap seam crack*” means a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

“*National Board*” means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of local boiler codes.

“*National Board Inspection Code*” means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

“*Object*” means a boiler or pressure vessel.

“*Power boiler*” means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

“*Process steam generator*” means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

“*Psig*” means pounds per square inch gage.

“*Reinstalled boiler or pressure vessel*” means an object removed from its original setting and reinstalled at the same location or at a new location.

“*Relief valve*” means an automatic pressure-relieving device actuated by a static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure and that is used primarily for liquid service.

“*Repair*” means work necessary to return a boiler or pressure vessel to a safe operating condition.

“*Rupture disk device*” means a nonreclosing pressure-relief device actuated by inlet static pressure and designed to function by the bursting of a pressure-containing disk.

“*Safety appliance*” shall include, but not be limited to:

1. Rupture disk device;
2. Safety relief valve;
3. Safety valve;
4. Temperature limit control;
5. Pressure limit control;
6. Gas switch;
7. Air switch; or
8. Any major gas train control.

“*Safety relief valve*” means an automatic, pressure-actuated relieving device suitable for use as a safety or relief valve, depending on application.

“*Safety valve*” means an automatic, pressure-relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. The safety valve is used for gas or vapor service.

“*Special inspection*” means an inspection which is not required by Iowa Code chapter 89.

“*Temperature and pressure relief valve*” means a valve set to relieve at a designated temperature and pressure.

“*Unfired steam boiler*” means a vessel or system of vessels intended for operation at a pressure in excess of 15 psig for the purpose of producing and controlling an output of thermal energy.

“*Unfired steam pressure vessel*” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source.

“*U.S. customary units*” means feet, pounds, inches and degrees Fahrenheit.

“*Water heater supply boiler*” means a closed vessel in which water is heated by combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressure not exceeding 160

psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees F.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—90.3(89) Iowa identification numbers. All objects shall be identified by an Iowa identification number. State inspectors and special inspectors shall assign identification numbers as directed by the division to all jurisdictional objects that lack numbers. Identification numbers shall be attached in plain view to the object using one of the following methods:

1. A yellow sticker 2 inches by 3 inches affixed to the object and bearing the number.
2. A metal tag 1 inch by 2½ inches affixed to the object and bearing the number.
3. Numbers at least 5/16 of an inch high and stamped directly on the object.

875—90.4(89) National Board registration. Rescinded IAB 11/18/09, effective 1/1/10.

875—90.5(89) Preinspection owner or user preparation.

90.5(1) Preparation of objects. Each owner or user shall ensure that each object covered by Iowa Code chapter 89 is prepared for inspection pursuant to this rule.

90.5(2) Confined space and lockout, tagout procedures.

a. It is the responsibility of the owner or user to assess all objects for compliance with the confined space and lockout, tagout standards pursuant to 29 CFR 1910.146 and 1910.147. If an object is a non-permit-required confined space or a permit-required confined space as defined by 29 CFR 1910.146, the owner or user must comply with all applicable requirements of 29 CFR 1910.146 and 1910.147 in preparing the object for inspection.

b. It is the duty of the owner or user to inform any inspector of the owner's or user's confined space entry and lockout, tagout procedures and supply to the inspector all information necessary to assess whether the confined space is safe for entry. It is the right of an inspector to verify any of the information supplied.

c. If the requirements of 29 CFR 1910.146 and 1910.147 are not met, the inspector shall not enter the space. If there is a breach of the procedure or the procedure is inconsistent with 29 CFR 1910.146 or 1910.147, the inspection process shall cease until the space is reassessed and determined to be safe or the procedure is rewritten in a manner consistent with the standards. No inspector shall violate the owner's or user's confined space or lockout, tagout procedures in making an inspection.

d. The owner or user shall have all objects locked and tagged, as applicable, prior to the inspector's entry for inspection or testing.

e. For entry into a permit-required confined space, the owner or user shall provide the necessary equipment such as air monitors and a qualified attendant who has received all the information relevant to the entry.

90.5(3) Hydrostatic tests. The owner or user shall prepare for and apply a hydrostatic test, whenever necessary, on the date specified by the inspector, which date shall be not less than seven days after the date of notification.

90.5(4) Boilers. A boiler shall be prepared for internal inspection in the following manner:

a. Water shall be drawn off and the boiler washed thoroughly.

b. Manhole and handhole plates, washout plugs and inspection plugs in water columns shall be removed as required by the inspector. The furnace and combustion chambers shall be thoroughly cooled and cleaned.

c. All grates of internally fired boilers shall be removed.

d. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

e. Low-water fuel cutoff controls shall be opened or removed to allow for visual inspection.

90.5(5) Pressure vessels. The extent of inspection preparation for a pressure vessel will vary. If the inspection is to be external only, advance preparation is not required other than to afford reasonable access to the vessel. For combined internal and external inspections of small vessels of simple construction

handling air, steam, nontoxic or nonexplosive gases or vapors, minor preparation is required, including affording reasonable means of access and removing manhole plates and inspection openings. In other cases, preparation shall include removing the internal fittings and appurtenances to permit satisfactory inspection of the interior of the vessel if required by the inspector.

90.5(6) *Removal of covering or brickwork to permit inspection.* If the object is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and so that the size of rivets, pitch of the rivets, and other data necessary to determine the safety of the object may be obtained, providing the information cannot be determined by other means. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

90.5(7) *Improper preparation for inspection.* If an object has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for hydrostatic tests as set forth in this chapter, the inspector may decline to make the inspection or test, and the inspection certificate shall be withheld until the owner or user complies with the requirements.

875—90.6(89) Inspections.

90.6(1) *General.* All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code (2007 with 2008 addenda), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

90.6(2) *Schedule.* Inspections must be performed according to the schedule set forth in Iowa Code section 89.3 and within a 60-day period prior to the expiration date of the operating certificate. Modification of this period will be permitted only upon written application showing just cause for waiver of the 60-day period. Special inspections may be conducted at any time mutually agreed to by the division and the object's owner or user.

90.6(3) *Inspections conducted by special inspectors.* Special inspectors shall provide copies of the completed report to the insured and to the division within 30 days of the inspection. The reports shall list all adverse conditions and all requirements, if any. If the special inspector has not notified the division of the inspection results within 30 days of the expiration of an operating certificate, the division may conduct the inspection.

90.6(4) *Type of inspection.* The inspection shall be an internal inspection when required; otherwise, it shall be as complete an external inspection as possible. Conditions including, but not limited to, the following may also be the basis for an internal inspection:

- a. Visible metal or insulation discoloration due to excessive heat.
- b. Visible distortion of any part of the pressure vessel.
- c. Visible leakage from any pressure-containing boundary.
- d. Any operating records or verbal reports of a vessel being subjected to pressure above the nameplate rating or to a temperature above or below the nameplate design temperature.
- e. A suspected or known history of internal corrosion or erosion.
- f. Evidence or knowledge of a vessel having been subjected to external heat from a resulting fire.
- g. A welded repair not documented as required.
- h. Personal injury, property damage accident, or malfunction affecting the pressure vessel's integrity.

90.6(5) *Internal inspections for unfired steam pressure vessels operating at more than 15 pounds per square inch.* The commissioner may require an internal inspection of an unfired steam pressure vessel operating in excess of 15 psi when an inspector observes any deviation from these rules, Iowa Code chapter 89, the construction code, the installation code, or the National Board Inspection Code.

90.6(6) *Inspection of inaccessible parts.* When, in the opinion of the inspector, as a result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall

remove such material to permit proper inspection and thickness measurement of any part of the vessel. Nondestructive examination is acceptable.

90.6(7) *Imminent danger.* If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be posted by the labor commissioner. Upon such notice, the owner shall immediately begin the necessary steps to cease operation of the object. The object shall not be used until the necessary repairs have been completed and the object has passed inspection. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code sections 89.11 and 89.13.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—90.7(89) Fees.

90.7(1) *Special inspector certification fee.* A \$40 fee shall be paid annually to the commissioner to obtain a special inspector certification pursuant to Iowa Code section 89.7, subsection 1.

90.7(2) *Certificate fee.* A \$25 fee shall be paid for each one-year certificate, a \$50 fee shall be paid for each two-year certificate, and a \$100 fee shall be paid for each four-year certificate.

90.7(3) *Fees for inspection.* An inspection fee for each object inspected by a division inspector shall be paid by the appropriate party as follows:

- a. A \$40 fee for each water heater supply boiler.
- b. An \$80 fee for each boiler, other than a water heater supply boiler, having a working pressure up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.
- c. A \$200 fee for each boiler, other than a water heater supply boiler, having a working pressure in excess of 450 pounds per square inch and generating in excess of 100,000 pounds of steam per hour.
- d. A \$40 fee for each pressure vessel, such as steam stills, tanks, jacket kettles, sterilizers and all other reservoirs having a working pressure of 15 pounds or more per square inch.
- e. In addition to the applicable object's inspection fee, if the division cannot follow normal practice of scheduling inspections in a cost-effective manner due to a request by an owner or user for a customized schedule, travel expenses may be charged at the discretion of the division.
- f. Inspections and code qualification surveys made by the commissioner at the request of a boiler or tank manufacturer shall be charged at a rate set by the commissioner not to exceed the rate currently charged by the various insurance companies for performing a similar service. This charge shall not void the regular fee for inspection or certification when the boiler or tank is installed.
- g. If a boiler or pressure vessel has to be reinspected through no fault of the division, there shall be another inspection fee as specified above. However, there shall be no fee charged for the first scheduled reinspection to verify that ordered repairs have been made.

90.7(4) *Fees for attempted inspections.* A \$20 fee shall be charged for each attempt by a division inspector to conduct an inspection which is not completed through no fault of the division.

[ARC 7863B, IAB 6/17/09, effective 7/1/09; ARC 8081B, IAB 8/26/09, effective 9/30/09]

875—90.8(89) Certificate. A certificate to operate shall not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. The current certificate to operate or a copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.

875—90.9(89,252J,261) Special inspector commissions.

90.9(1) *Application.* A person applying for a commission shall complete, sign, and submit to the division with the required fee the form entitled "Application for Boiler and Pressure Vessel Special Inspector Commission" provided by the division. Additionally, the applicant shall submit a copy of the applicant's current National Board work card with each application.

90.9(2) *Expiration.* The commission is for no more than one year and ceases when the special inspector leaves employment with the insurance company, or when the commission is suspended or revoked by the labor commissioner. Each commission shall expire no later than June 30 of each year.

90.9(3) Changes. The special inspector shall notify the division at the time any of the information on the form or attachments changes.

90.9(4) Denials. The labor commissioner may refuse to issue or renew a special inspector's commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules 90.9(6) to 90.9(8).

90.9(5) Investigations. Investigations shall take place at the time and in the places the labor commissioner directs. The labor commissioner may investigate for any reasonable cause. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

90.9(6) Reasons for probation. The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector filed inaccurate reports.

90.9(7) Reasons for suspension. The labor commissioner may issue a notice of commission suspension when an investigation reasonably reveals the following:

- a. The special inspector failed to submit and report inspections on a timely basis;
- b. The special inspector abused the special inspector's authority;
- c. The special inspector misrepresented self as a state inspector or a state employee;
- d. The special inspector used commission authority for inappropriate personal gain;
- e. The special inspector failed to follow the division's rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f. The special inspector committed numerous violations as described in subrule 90.9(6);
- g. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- h. The National Board revoked or suspended the special inspector's work card;
- i. The division received a certificate of noncompliance; or
- j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs "a" to "h" of this subrule.

90.9(8) Reasons for revocation. The labor commissioner may issue a notice of revocation of a special inspector's commission when an investigation reveals any of the following:

- a. The special inspector filed a misleading, false or fraudulent report;
- b. The special inspector failed to perform a required inspection;
- c. The special inspector failed to file a report or filed a report which was not in accordance with the provisions of applicable standards;
- d. The special inspector failed to notify the division in writing of any accident involving an object;
- e. The special inspector committed repeated violations as described in subrule 90.9(7);
- f. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- g. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs "a" to "f" of this subrule;
- h. The National Board revoked or suspended the special inspector's work card; or
- i. The division received a certificate of noncompliance.

90.9(9) Procedures. The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

a. *Notice of actions.* The labor commissioner shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A. A copy shall be sent to the insurance company employing the special inspector.

b. *Contested cases.* The special inspector shall have 20 days to file a written notice of contest with the labor commissioner. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.

c. *Hearing procedures.* The hearing procedures in 875—Chapter 1 shall govern.

d. *Emergency suspension.* Pursuant to Iowa Code section 17A.18A, if the labor commissioner finds that public health, safety or welfare imperatively requires emergency action because a special

inspector failed to comply with applicable laws or rules, the special inspector's commission may be summarily suspended.

e. Probation period. A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

f. Suspension period. A special inspector's commission may be suspended up to five years for each incident causing a suspension.

g. Revocation period. A special inspector's commission that has been revoked shall not be reinstated for five years.

h. Concurrent actions. Multiple actions may proceed at the same time against any special inspector.

i. Revoked or suspended commissions. Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall forfeit the special inspector's commission card to the labor commissioner.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—90.10(89) Quality reviews, surveys and audits.

90.10(1) An entity that manufactures or repairs boilers, pressure vessels or related equipment may request quality reviews, surveys or audits from certifying organizations such as the ASME or the National Board. The division is authorized to conduct the quality reviews, surveys or audits. If the division performs the service, the manufacturer or repairer shall pay all applicable expenses.

90.10(2) Quality reviews, surveys and audits for certification to the National Board or ASME standards shall be conducted only by a person or organization designated by the labor commissioner. Any person or organization seeking this designation on behalf of the division shall provide documented evidence of training, examination, experience, and certification for the type of reviews, surveys and audits to be performed. The labor commissioner shall have final authority to determine qualifications and designations.

a. Assessing quality programs. The division recognizes the ASME and the National Board as qualified designees for conducting quality reviews, surveys and audits that lead to ASME or National Board program certification.

b. ISO 9000 assessments. The division recognizes the ASME and the National Board:

(1) To be acceptable ISO 9000 registrars of quality systems for boilers and pressure vessels and the related pressure-technology equipment industry;

(2) To certify auditors and lead auditors to the requirements of ISO 10011-2 1991(E), Annex A; and

(3) To conduct ISO 9000 assessments for the boiler, pressure vessel, and related pressure-technology equipment industry.

875—90.11(89) Notification of explosion. Owners and users of covered objects must report any object explosion by calling (515)281-3647 or (515)281-6533. If the explosion occurs during normal division operating hours, notification shall occur before close of business on that day. If the explosion occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

875—90.12(89) Publications available for review. Pursuant to Iowa Code section 89.5, subsection 3, the standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa.

875—90.13(89) Notice prior to installation. Written notice of intent to install objects subject to the jurisdiction of Iowa Code chapter 89 shall be provided to the labor commissioner at least ten days before installation. Written notice shall be accomplished by completing and submitting to the labor commissioner either:

1. The form designated by the labor commissioner, or

2. The National Board's Boiler Installation Report, I-1.

875—90.14(89) Temporary boilers. A certificate to operate a temporary boiler shall expire one year from the date of issuance or when the temporary boiler is disconnected. Inspections on temporary boilers that remain in one location longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3. A temporary boiler that is installed at a different location less than a year since the prior internal inspection of the boiler shall be subjected to a hydrostatic test pursuant to the National Board Inspection Code or to an internal inspection, at the discretion of the inspector.

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, 261, and 272D.

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[◇] Two or more ARCs

¹ Date corrected IAC Supp. 3/26/08

CHAPTER 91
GENERAL REQUIREMENTS FOR ALL OBJECTS

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Ch 203]

875—91.1(89) Codes adopted by reference.

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2007 with 2008 addenda) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2007 with 2008 addenda) except for objects that meet one of the following criteria:

- a. An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b. An object within the scope of 875—Chapter 95;
- c. An object with an ASME stamp and National Board Registration that establish compliance with DIN, BSI, JIS, or CSA;
- d. A miniature boiler installed before March 31, 1967;
- e. A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- f. A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

91.1(2) *Inspection code adopted by reference.* The National Board Inspection Code (2007 with 2008 addenda) is adopted by reference, and reinstallations, installations, alterations, and repairs after January 1, 2010, shall comply with it.

91.1(3) *Electric code adopted by reference.* The National Electric Code (2008) is adopted by reference, and reinstallations and installations after January 1, 2010, shall comply with it.

91.1(4) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2007 with 2008 addenda), and the Building Services Piping Code, ASME B31.9 (2008), are adopted by reference, and reinstallations and installations after January 1, 2010, shall comply with them up to and including the first valve.

91.1(5) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2009) is adopted by reference, and reinstallations and installations after January 1, 2010, shall comply with it.

91.1(6) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2009) are adopted by reference effective January 1, 2010.

91.1(7) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2006), is adopted by reference.

91.1(8) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2009), is adopted by reference.

91.1(9) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2008), is adopted by reference.

91.1(10) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2007), is adopted by reference.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.2(89) Safety appliance. No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection. An object shall not be operated unless all applicable safety appliances are properly functional and operational.

875—91.3(89) Pressure-reducing valves. Where pressure-reducing valves are used, one or more relief or safety valves shall be provided on the low-pressure side of the reducing valve when the piping equipment on the low-pressure side does not meet the requirements for the full initial pressure. The relief or safety valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge

of relief or safety valves if vented to the atmosphere. The combined discharge capacity of the relief valves or safety valves shall be such that the pressure rating of the lowest pressure piping or equipment shall not be exceeded in case the reducing valve sticks open. If a bypass around the reducing valves is used, a safety valve is required on the low-pressure side and shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without overpressuring the low-pressure side. A pressure gage shall be installed on the low-pressure side of a reducing valve.

875—91.4(89) Blowoff equipment. The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit. If the local jurisdiction has a temperature limit of less than 150 degrees Fahrenheit, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.5(89) Location of discharge piping outlets. The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall be so arranged that there will be no danger of scalding personnel. When the safety valve or temperature and pressure relief valve discharge is piped away from the object to the point of discharge, provision shall be made for properly draining the piping. The size of the discharge piping shall not be reduced from the size of the relief valve.

875—91.6(89) Pipe, valve, and fitting requirements.

91.6(1) Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules except where permitted in 875—Chapter 95. Dielectric fittings shall be used where dissimilar metals are joined.

91.6(2) and 91.6(3) Rescinded IAB 11/18/09, effective 1/1/10.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.7(89) Electric steam generator.

91.7(1) A cable at least as large as one of the incoming power lines to the generator shall be permanently fastened to and provide grounding of the generator shell.

91.7(2) A suitable screen or guard shall be provided around high-tension bushings and a sign posted warning of high voltage. This screen or guard shall be so located that it will be impossible for anyone working around the generator to accidentally come in contact with the high-tension circuits.

91.7(3) All electrically heated boilers shall meet the applicable standards of the construction or installation code.

875—91.8(89) Alterations, retrofits and repairs to objects.

91.8(1) General. Alterations, retrofits, and repairs shall be made so that the object shall be at least as safe as the original construction. Alterations, retrofits, and repairs shall be done as though new construction and shall comply with the applicable code or codes as adopted in 875—Chapters 90 through 96. A National Board “R” form shall be filed with the division for each alteration, retrofit, or repair.

91.8(2) Lap seam cracks. The shell or drum of an object in which a lap seam crack is discovered along a longitudinal, riveted joint shall be immediately discontinued from use. If the object is not more than 15 years of age, a complete new course of the original thickness may be installed at the discretion of the inspector. Patching is prohibited.

875—91.9(89) Boiler door latches. A watertube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or are

otherwise so constructed as to prevent closed doors from being blown open by pressure on the furnace side. These latches or fastenings shall be of the positive, self-locking type. Friction contacts, latches, and bolts actuated by springs shall not be used. The foregoing requirements for latches or fastenings shall not apply to coal openings on downdraft or similar furnaces.

All other doors, except explosion doors, not used in the firing of the boiler may be provided with bolts or fastenings in lieu of self-locking latching devices. Explosion doors, if used and located in the setting walls within seven feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

875—91.10(89) Clearance.

91.10(1) All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

91.10(2) This subrule applies to installations and reinstallations after September 20, 2006. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or any other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or exit from the object.

875—91.11(89) Fall protection. Safe access to all necessary parts of boilers over eight feet tall shall be provided by a runway platform or fall protection system consistent with the requirements below.

91.11(1) Runway platform. A steel runway platform in compliance with the criteria of 29 CFR 1910.23 and 1910.27 shall be installed across the tops of objects or at some other convenient level for the purpose of affording safe access. All runways shall have at least two means of exit remotely located from each other.

91.11(2) Fall protection system. A fall protection system shall be in compliance with the requirements of 29 CFR 1910.132.

875—91.12(89) Exit from rooms containing objects. All rooms exceeding 500 square feet of floor area and containing one or more objects having a fuel-burning capacity of 1 million Btu's shall have two means of exit remotely located from each other on each level.

875—91.13(89) Air and ventilation.

91.13(1) Notice concerning other rules. The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

91.13(2) Documentation. Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

91.13(3) National combustion air standards.

a. Installations and reinstallations. Installations and reinstallations shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

b. Existing objects. An adequate supply of combustion air shall be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance

with this rule. Earlier versions of Iowa's combustion air rule are available for reference at http://www.iowaworkforce.org/labor/boiler_inspection_.htm.

91.13(4) Iowa combustion air standard. A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than shown above.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.14(89) Condensate return tank. Condensate return tanks shall be equipped with at least two vents or a vent and overflow pipe to protect against a loose float plugging a single connection.

875—91.15(89) Conditions not covered. Any condition not governed by these rules shall be governed by the construction or installation code.

875—91.16(89) Nonstandard objects. Rescinded IAB 3/12/08, effective 4/16/08.

875—91.17(89) English language and U.S. customary units required. All documentation supplied for the unit including but not limited to the manufacturers' data report, drawings, parts lists, installation manuals, and operating manuals shall be in English, and all measurements shall be in U.S. customary units. All pressure gages, thermometers and other controls and safety devices shall also be in U.S. customary units.

875—91.18(89) National Board registration. Except for cast iron boilers, cast aluminum boilers, and objects governed by 875—Chapter 95, all objects shall be registered with the National Board.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.19(89) ASME stamp. Except for water heaters regulated by 875—Chapter 95, all objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.20(89) CSD-1 Report.

91.20(1) The installer shall complete a Manufacturer's/Installing Contractor's Report for ASME CSD-1 (CSD-1 Report) for each object except for the following:

- a. An object within the scope of 875—Chapter 95;
- b. An object within the scope of 875—Chapter 96; or
- c. A hot water supply boiler covered by ASME Section IV, Part HLW.

91.20(2) The owner shall make the CSD-1 Report available for inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 89.

[Filed emergency 12/26/97 after Notice 11/19/97—published 1/14/98, effective 1/1/98]

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[Filed 11/30/07, Notice 10/24/07—published 12/19/07, effective 1/23/08]

[Filed 2/19/08, Notice 12/19/07—published 3/12/08, effective 4/16/08]

[Filed 6/24/08, Notice 5/7/08—published 7/16/08, effective 8/20/08]

[Filed ARC 8283B (Notice ARC 8082B, IAB 8/26/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 92
POWER BOILERS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 1/14/98, see Labor Services[347] Ch 43, 44]
[Prior to 8/16/06, see 875—Chs 204, 205]

875—92.1(89) Scope. This chapter applies to all power boilers, and it applies to miniature power boilers installed on and after September 20, 2006. 875—Chapter 93 applies to miniature power boilers installed prior to September 20, 2006.

875—92.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—92.3(89) Codes adopted by reference. Rescinded IAB 11/18/09, effective 1/1/10.

875—92.4(89) Maximum allowable working pressure for steel boilers. This rule applies to power boilers installed prior to July 1, 1983. A boiler constructed with fusion-welded seams and not radiographed and stress relieved during construction shall not be operated at a pressure in excess of 15 pounds per square inch. Boilers with fusion-welded seams that are radiographed and stress relieved and constructed to ASME Code requirements in effect when the boiler was constructed may be operated at a pressure as established in subrules 92.4(1) and 92.4(2).

92.4(1) Calculation. The maximum allowable working pressure on the shell of a boiler shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules. The formula for determining the maximum allowable working pressure is:

$$\frac{TSE}{RFS} = \text{Maximum allowable working pressure, psig.}$$

Where:

- TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.
- t = Minimum thickness of shell plates of the weakest course, in inches.
- E = Efficiency of longitudinal joint calculated pursuant to construction or installation code.
- R = Inside radius of the weakest course of the shell or drum, in inches.
- FS = Factor of safety specified in subrule 92.4(2).

92.4(2) Factor of safety.

- a. The lowest factor of safety on boilers shall be four, except for horizontal tubular boilers having continuous lap seams more than 12 feet in length where the factor of safety shall be eight.
- b. Boilers that are reinstalled and have lap riveted construction or seams of butt and double strap riveted construction shall use ASME Code, Section I (1971).
- c. The inspector shall increase the factor of safety if the conditions and safety of the boiler demand it.

875—92.5(89) Maximum allowable working pressure and temperature for cast iron headers and mud drums. This rule applies to power boilers installed prior to July 1, 1983.

92.5(1) Tube boiler. The maximum allowable working pressure on a watertube boiler, the tubes of which are secured in cast iron or malleable iron headers or which have cast iron mud drums, shall not exceed 160 psig or a temperature of 250° F.

92.5(2) Maximum steam pressure. The maximum steam pressure on any boiler constructed of cast iron in which steam is generated shall be 15 psig.

875—92.6(89) Rivets. This rule applies to power boilers installed prior to July 1, 1983. When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, shall be selected from ASME Code, Section I (1971).

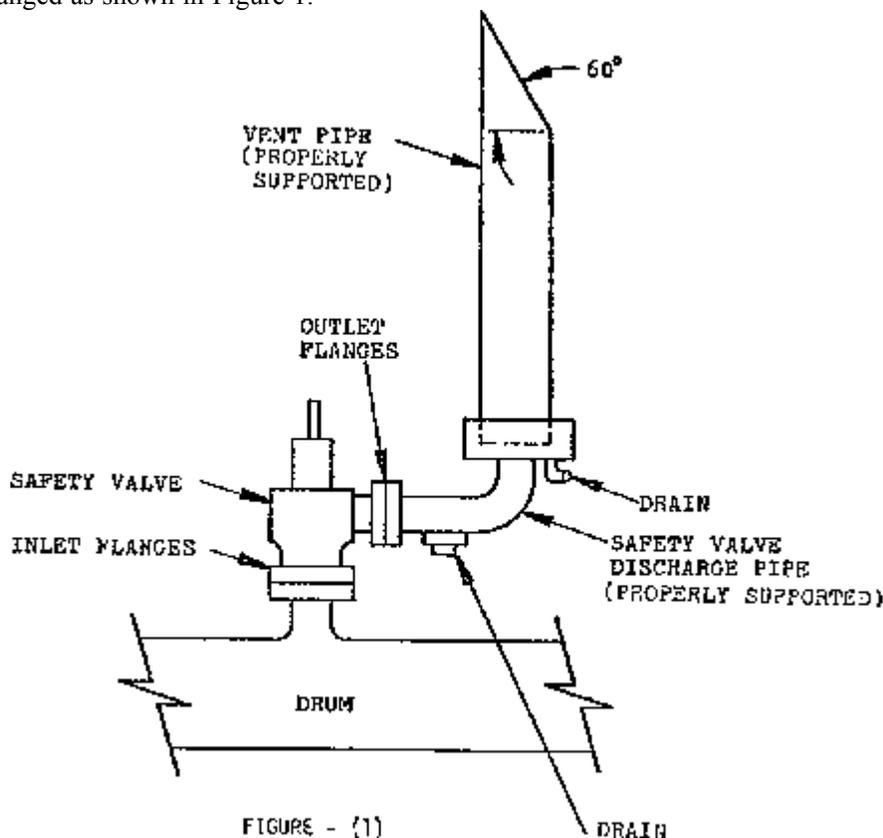
875—92.7(89) Safety valves. This rule applies to power boilers installed prior to July 1, 1983.

92.7(1) The use of weighted-lever safety valves or safety valves having either the seat or disk of cast iron is prohibited. All power boilers shall have direct, springloaded, pop-type safety valves that conform to the construction or installation code.

92.7(2) Each boiler shall have at least one safety valve. All boilers with more than 500 square feet of water heating surface or an electric power input of more than 1100 kilowatts shall have two or more safety valves.

92.7(3) The safety valve or valves shall be connected to the boiler independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings.

92.7(4) No valves of any type shall be placed between the safety valve and the boiler. If an escape pipe is used, no valve shall be placed between the safety valve and the atmosphere. When an escape pipe is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or escape pipe. Any elbow on an escape pipe shall be located close to the safety valve outlet or the escape pipe and shall be anchored and supported securely. All safety valve discharges shall be so located or piped as to be carried away from walkways or platforms. When the safety valve is vented to the outside atmosphere, the second escape pipe shall be arranged as shown in Figure 1.



92.7(5) The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 5 percent above the highest pressure to which any valve is set and in no case to more than 6 percent above maximum allowable working pressure.

92.7(6) One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum

allowable working pressure, but the range setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure at which any valve is set.

92.7(7) When two or more boilers operating at different pressures and safety valve settings are interconnected, the lowest pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

92.7(8) In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not including return traps), safety valves shall not be set at a pressure greater than 94 percent of the lowest pressure maintained in the supply main feeding the boiler.

92.7(9) The minimum safety valve relieving capacity shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and waterwall heating surface as given in the following table. This method shall not be used on electric boilers, waste heat boilers and forced-flow steam generators without a fixed steam and water line.

Minimum Pounds of Steam Per Hour Per Square
Foot of Heating Surface

Boiler Heating Surface:	Firetube Boilers	Watertube Boilers
Hand Fired	5	6
Stoker Fired	5	8
Oil, Gas, or Pulverized Fuel Fires	8	10
Waterwall Heating Surface:		
Hand Fired	8	8
Stoker Fired	10	12
Oil, Gas, or Pulverized Fuel Fires	14	16

92.7(10) Safety valve sizing.

a. When a boiler is fired only by a gas having a heat value not in excess of 200 Btu's per cubic feet the minimum safety valve relieving capacity may be based on the value given for hand-fired boilers above.

b. The minimum safety valve relieving capacity for electric boilers shall be 3½ pounds per hour per kilowatt input.

c. Maximum steaming capacity for safety valves shall be the value stated on design documents or shall be calculated by multiplying horsepower by 34.5.

875—92.8(89) Boiler feeding. This rule applies to power boilers installed prior to July 1, 1983.

92.8(1) Each boiler shall have a feed supply that will permit it to be fed at any time while under pressure. A boiler having more than 500 square feet of water-heating surface shall have at least two means of feeding, one of which shall be an approved feed pump, injector, or inspirator. One source of feed is directly from the water main. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the immediate shutoff of heat input prior to the water level reaching the lowest permissible level. The feedwater shall be introduced into the boiler in such a manner that it will not be discharged close to riveted joints of shell or furnace sheets, directly against surfaces exposed to products of combustion, or directed to surfaces subject to radiation from the fire. The feed piping to the boiler shall be provided with a check valve near the boiler and a stop valve between the check valve and the boiler.

92.8(2) When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line. The stop valve shall

be placed between the boiler and the check valve, and both shall be located as close to the boiler as is practicable.

875—92.9(89) Water level indicators. This rule applies to power boilers installed prior to July 1, 1983. Outlet connections that allow the escape of an appreciable amount of steam or water shall not be placed on the piping. However, this rule does not prohibit the installation of damper regulators, feed water regulators, low-water fuel cutouts, drains, or steam gages. The water column shall be provided with a drain of at least $\frac{3}{4}$ -inch piping size. The drain must have a valve and be piped to a safe location. Each boiler shall have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located at the same horizontal lines. Only two gage cocks are required on boilers not over 36 inches in diameter with a heating surface not exceeding 100 square feet. Gage cocks are not required on electric boilers.

875—92.10(89) Pressure gages. This rule applies to power boilers installed prior to July 1, 1983. Each boiler shall have a pressure gage so located that the gage is readable. The pressure gage shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gage connected to the steam space or to the water column or its steam connection. A valve or cock shall be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing out. For a steam boiler the gage or connection shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections shall be suitable for the maximum allowable working pressure and temperature, but if the temperature exceeds 406° F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon, if used, shall not be less than $\frac{1}{4}$ -inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, they shall not be less than $\frac{1}{2}$ -inch inside diameter. The minimum size of a siphon, if used, shall be $\frac{1}{4}$ -inch inside diameter. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than $1\frac{1}{2}$ times this pressure.

875—92.11(89) Steam stop valves. This rule applies to power boilers installed prior to July 1, 1983. Each steam outlet from a boiler, except safety valve and water-column connections, shall be fitted with a stop valve located as close as practicable to the boiler. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting. When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves having an ample free-blowing drain between them. The discharge of the drain shall be piped clear of the boiler setting. The stop valves shall consist of one automatic nonreturn valve next to the boiler and a second valve of the outside screw and yoke type.

875—92.12(89) Blowoff connection. This rule applies to power boilers installed prior to July 1, 1983. Each boiler shall have a blowoff pipe fitted with valve or cock, in direct connection with the lowest water space practicable.

When the maximum allowable working pressure exceeds 125 psig, the blowoff pipe shall be at least schedule 80 from the boiler to the valve or valves and shall run full size without reducers or bushings. Galvanized materials shall not be used.

All fittings between the boiler and valve shall be steel or at least schedule 80 fittings of bronze, brass, malleable iron, or cast iron, all of which shall be suitable for the pressure and temperature. In case of replacement of pipe or fittings in the blowoff lines, as specified in this paragraph, they shall be installed in accordance with the rules of new installations.

When the maximum allowable working pressure exceeds 125 psig, each bottom blowoff pipe shall be fitted with at least a 250-pound standard valve or cock. Two valves, or a valve and a cock, should be used on each blowoff.

When exposed to direct furnace heat, a bottom blowoff pipe shall be protected by firebrick or other heat resisting material so arranged that the pipe may be inspected.

An opening in the boiler setting for a blowoff pipe shall be arranged to provide for free expansion and contraction.

These rules are intended to implement Iowa Code chapter 89.

[Filed 7/15/59]

[Filed 5/6/83, Notice 3/30/83—published 5/25/83, effective 7/1/83]

[Filed emergency 6/13/83—published 7/6/83, effective 7/1/83]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed 3/17/89, Notice 9/21/88—published 4/5/89, effective 5/10/89]

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[Filed 5/16/96, Notice 11/22/95—published 6/5/96, effective 8/1/96]

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[Filed ARC 8283B (Notice ARC 8082B, IAB 8/26/09), IAB 11/18/09, effective 1/1/10]

CHAPTER 93
MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 1/14/98, see Labor Services[347] Ch 45]
[Prior to 8/16/06, see 875—Ch 206]

875—93.1(89) Scope. This chapter sets forth requirements in addition to those contained in 875—Chapter 92 for boilers that:

1. Have a heating surface of 20 square feet or less;
2. Have a gross volume of 5 cubic feet or less, excluding casing and insulation;
3. Have an inside shell diameter of 16 inches or less;
4. Have 100 psig maximum allowable working pressure; and
5. Were installed prior to September 20, 2006.

For objects covered by this chapter, if there is a conflict between this chapter and Chapter 92, this chapter shall govern the issue.

875—93.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.3(89) Maximum working pressure. The maximum allowed working pressure is to be determined by rule 875—92.4(89).

875—93.4(89) Safety valves. Boilers covered by this chapter shall be equipped with a sealed spring-loaded pop safety valve of not less than ½-inch pipe size. The minimum relieving capacity of the safety valve shall be determined in accordance with rule 875—92.7(89). In addition to these requirements, the safety valve shall have sufficient capacity to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above maximum allowable working pressure.

875—93.5(89) Steam stop valves. Each steam line from a miniature power boiler shall be provided with a stop valve located as close to the boiler shell or drum as is practicable except when the boiler and steam receiver are operated as a closed system.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.6(89) Water gages.

93.6(1) Miniature power boilers for operation with a definite water level shall be equipped with a glass water gage for determining the water level. The lowest permissible water level for vertical boilers shall be at a point one-third of the height of the shell above the bottom head or tube sheet. When the boiler is equipped with an internal furnace, the water level shall not be less than one-third of the length of the tubes above the top of the furnace tube sheet. In the case of small boilers operated in a closed system where there is insufficient space for the usual glass water gage, water level indicators of the glass bull's eye type may be used.

93.6(2) Miniature power boilers shall have the lowest visible part of the water gage glass located at least 1 inch above the lowest permissible water level specified by the manufacturer.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.7(89) Feedwater supply.

93.7(1) Except for miniature power boilers operating without the extraction of steam, miniature power boilers shall be provided with at least one feed pump or other feeding device unless the boiler feed line is connected to a water main carrying sufficient pressure to feed the boiler. In the latter case, in lieu of a feeding device, a suitable connection or opening shall be provided to fill the boiler when cold. Such connection shall be no less than ½-inch pipe size for iron or steel pipe and ¼ inch for brass or copper pipe.

93.7(2) The feed pipe shall be provided with a check valve and a stop valve of a size not less than that of the pipe. The feed water may be delivered through the blowoff opening if desired.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.8(89) Blowoff. Miniature power boilers shall be equipped with a blowoff connection, not less than ½-inch pipe size, located to drain from the lowest water space practicable. The blowoff shall be equipped with a valve or cock not less than ½-inch pipe size.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.9(89) Washout openings. Miniature power boilers exceeding 12 inches internal diameter or having more than ten square feet of heating surface shall be fitted with not less than three brass washout plugs of 1-inch pipe size that shall be screwed into openings in the shell near the bottom. In miniature power boilers of the closed type system heated by removable internal electric heating elements, the openings for these elements when suitable for cleaning purposes may be substituted for washout openings. Boilers not exceeding 12 inches internal diameter and having less than ten square feet of heating surface need not have more than two 1-inch openings for cleanouts, one of which may be used for the attachment of the blowoff valve; these openings shall be opposite each other where possible. All threaded openings shall be opposite each other where possible. All threaded openings in the boiler shall be provided with a riveted or welded reinforcement to give four full threads therein.

Electric boilers of a design employing a removable top cover flange for inspection and cleaning need not be fitted with washout openings.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.10(89) Fixtures and fittings. All valves, pipe fittings, and appliances connected to a miniature power boiler shall be equal to at least the minimal requirements of the construction or installation code and shall be rated for not less than the maximum allowable working pressure of the miniature power boiler. In no case shall the rating be for less than 125 pounds.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 89.

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CHAPTER 94
STEAM HEATING BOILERS, HOT WATER HEATING BOILERS AND
HOT WATER SUPPLY BOILERS

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

[Prior to 1/14/98, see Labor Services[347] Ch 46]

[Prior to 8/16/06, see 875—Ch 207]

875—94.1(89) Scope. This chapter shall apply to:

94.1(1) Steam boilers for operation at pressures not exceeding 15 psig;

94.1(2) Hot water heating boilers for operation at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet;

94.1(3) Hot water supply boilers for operation at pressures not exceeding 160 psig or temperatures not exceeding 210° F at or near the boiler outlet.

875—94.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.3(89) General requirements. This rule applies to all objects covered by this chapter and installed prior to September 20, 2006.

94.3(1) Instruments, fittings and controls mounted inside boiler jackets. Any or all instruments, fittings and controls required by this chapter may be installed inside of boiler jackets provided the water gage and pressure gage on a steam boiler or the thermometer and pressure gage on a water boiler are visible through an opening or openings at all times.

94.3(2) Electrical code compliance.

a. Wiring. All wiring for controls, heat-generating apparatus and other appurtenances necessary for the operation of the boiler or boilers shall be in accordance with the National Electric Code (1992). All boilers supplied with factory-mounted and factory-wired controls, heat-generating apparatus and other appurtenances necessary for the operation of the boilers shall be installed in accordance with the provisions of nationally recognized standards.

b. Circuitry. The control circuitry shall be grounded and shall operate at 150 volts or less. One of the two following systems may be employed to provide the control circuit:

(1) Two-wire, nominal 120-volt system with separate equipment ground conductor as follows:

This system shall consist of the line, neutral and equipment ground conductors. The control panel frame and associated control circuitry metallic enclosures shall be electrically continuous and be bonded to the equipment ground conductor.

The equipment ground conductor and the neutral conductor shall be bonded together at their origin in the electrical system for objects installed prior to September 20, 2006.

The line side of the control circuit shall be provided with a time delay fuse sized as small as practicable.

(2) Two-wire, nominal 120-volt system obtained by using an isolation transformer as follows:

The two-wire control circuit shall be obtained from the secondary side of an isolation transformer, shall be electrically continuous and shall be bonded to a convenient cold water pipe. All metallic enclosures of control components shall be securely bonded to this ground control circuit wire. The primary side of the isolation transformer will normally be a two-wire source with a potential 230, 208 or 440 volts.

Both sides of the two-wire primary circuit shall be fused. The hot leg on the load side of the isolation transformer shall be fused as small as practicable, and shall not be fused above the rating of the isolation transformer.

94.3(3) Safety and safety relief valve discharge piping. When a discharge pipe is used, its internal cross-sectional areas shall not be less than the full area of the valve outlet or of the total of the valve outlets discharging therein and shall be as short and straight as possible and so arranged as to avoid

undue stress on the valve or valves. When an elbow is placed on a safety valve or safety relief valve discharge pipe, the elbow shall be located close to the valve outlet.

94.3(4) Expansion and contraction. Provisions shall be made for the expansion and contraction of steam and hot water mains connected to boilers.

94.3(5) Return pipe connections. The return pipe connections of each boiler supplying a gravity-return steam heating system shall be so arranged as to form a loop so that the water in each boiler cannot be forced out below the safe water level.

94.3(6) Feed water connections.

a. Feed water, makeup water or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent feed water connection shall not discharge against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided for inspection, cleaning, safety valves, safety-relief valves, blowoffs, water columns, water gage glasses, pressure gages or temperature gages.

b. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

94.3(7) Oil heaters.

a. A heater for oil or other liquid harmful to boiler operation shall not be installed directly in the steam or water space within a boiler.

b. Where an external-type heater for such service is used, means shall be provided to prevent the introduction into the boiler of oil or other liquid harmful to boiler operation.

94.3(8) Bottom blowoff or drain valve.

a. Each boiler shall have a bottom blowoff or drain pipe connection fitted with a valve or cock connected with the lowest water space practicable, with the minimum size of blowoff piping and valves as specified below:

Minimum Required Safety or Safety-Relief Valve Capacity (Pounds of Steam Per Hour)	Size of Blowoff Valves (Inches)
Up to 500	$\frac{3}{4}$
501 to 1250	1
1251 to 2500	1 $\frac{1}{4}$
2501 to 6000	1 $\frac{1}{2}$
6001 and larger	2

NOTE: Multiply 1,000 by the relieving capacity in pounds of steam per hour to determine the Btu's of safety relief valve discharge capacity.

b. Any discharge piping connected to bottom blowoff or bottom drain connections shall be full size to the point of discharge.

94.3(9) Low-water fuel cutoff.

a. Each automatically fired hot water heating boiler shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be so located as to automatically cut off the fuel supply when the surface of the water falls to the level established.

b. As there is no normal waterline to be maintained in a hot water heating boiler, any location of the low-water fuel cutoff above the lowest safe permissible water level established by the boiler manufacturer is satisfactory.

c. A coil-type boiler or a watertube boiler requiring forced circulation to prevent overheating of the coils or tubes shall have a flow-sensing device installed in the outlet piping in lieu of the low-water fuel cutoff to automatically cut off the fuel supply when the circulating flow is interrupted.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.4(89) Steam heating boilers installed before July 1, 1960. All steam heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.4(1) Safety valves.

a. Each steam boiler shall have one or more safety valves bearing the National Board “HV” stamp of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be set to relieve at a higher pressure than the maximum allowable working pressure of the boiler. For iron and steel bodied valves exceeding 2-inch pipe size, the drain hole or holes shall be tapped not less than 3/8-inch pipe size.

b. The safety valves shall be located in the top or side of the boiler. They shall be connected directly to a tapped or flanged opening in the boiler, to a fitting connected to the boiler by a short nipple, to a Y-base, or to a valveless header connecting steam or water outlets on the same boiler. Coil or header type boilers shall have the safety valve located on the steam outlet end. Safety valves shall be installed with their spindles vertical. The opening or connection between the boiler and any safety valve shall have at least the area of the valve inlet.

c. Safety valves ½-inch or more in diameter that are installed on a steam boiler shall have a hand-lifted device that will positively lift the disk from its seat at least 1/16 inch when there is no pressure in the boiler. The seats and disks shall be of noncorrosive material.

d. Safety valves for a steam boiler shall be at least ½ inch unless the boiler and radiating surfaces consist of a self-contained unit. Safety valves shall not be larger than 4½ inches. The inlet opening shall have an inside diameter equal to or greater than the seat diameter.

e. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.

f. The minimum valve capacity in pounds per hour shall be equal to the steam generation as specified in 875—subrules 92.7(9) and 92.7(10).

g. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment operated at maximum capacity the pressure will not rise more than 5 percent above the maximum allowable working pressure.

h. When operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall meet the new conditions.

94.4(2) Steam gages.

a. Each steam boiler shall have a steam gage or a compound steam gage connected to its steam space, its water column, or to its steam connection. The gage or connection shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection shall be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever-handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than ¼-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, it shall be not less than ½-inch standard pipe size. The minimum size of a siphon, if used, shall be ¼-inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe size listed above may be substituted for pipe.

b. The scale on the dial of a steam boiler gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from zero to 30 psig pressure shall be at least 3 inches on a compound gage, and effective stops shall be set at the limits of the gage readings on both the pressure and vacuum sides of the gage.

94.4(3) Water gage glasses.

a. Each steam boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than ½-inch pipe size with the lower fittings provided with a drain valve having an unrestricted drain opening not less than ¼-inch diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure. Water gage glass fittings may be attached directly to a boiler.

b. The lowest visible part of the water gage glass shall be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

c. Transparent material other than glass may be used for the water gage provided that the material will remain transparent and has proved suitable for the pressure, temperature and corrosive conditions expected in service.

94.4(4) *Water column and water level control pipes.*

a. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 inch. No outlet connections, except for damper regulator, feedwater regulator, steam gages or apparatus which does not permit the escape of any steam or water, except for manually operated blowdowns, shall be attached to a water column or the piping connecting a water column to a boiler. If the water column, gage glass, low-water fuel cutoff or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right angle to facilitate cleaning. The water column drainpipe and valve shall be not less than $\frac{3}{4}$ -inch pipe size.

b. The steam connections to the water column of a horizontal firetube wrought boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connections shall be made on an end section not less than 6 inches below the bottom connection to the water gage glass.

94.4(5) *Pressure control.*

a. In addition to the operating control for normal boiler operation, each individual, automatically fired steam heating boiler shall have a high-limit, pressure-actuated combustion control that will cut off the fuel supply to prevent the pressure from rising over 15 psig. The separate controls may have a common connection to the boiler. Upon replacement of the high-limit, pressure-actuated combustion control, controls with manual reset shall be installed.

b. In a multiple boiler installation where the operating pressure control may be installed in a header or other point common to all boilers and could be isolated from any or all of the boilers, there shall be at least one high-limit, pressure-actuated combustion control mounted on each boiler.

c. No shutoff valve of any type shall be placed in the connection to the high-limit, pressure-actuated control. The control or connections shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the control. The connections to the boiler shall not be less than $\frac{1}{4}$ -inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, the fittings shall be not less than $\frac{1}{2}$ -inch standard pipe size. The minimum size of a siphon, if used, shall be $\frac{1}{4}$ -inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe size listed above may be substituted for pipe where a manifold is used for a multiple control. The connection to the boiler shall not be less than $\frac{1}{4}$ -inch standard pipe size.

94.4(6) *Automatic low-water fuel cutoff or water-feeding device.*

a. Each automatically fired steam or vapor system boiler shall have an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gage glass. If a water-feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feedwater.

b. A fuel cutoff or water-feeding device may be attached directly to a boiler or in the tapped openings available for attaching a water glass directly to a boiler. Connections in the tapped openings shall be made to the boiler with nonferrous tees or "Y"s not less than $\frac{1}{2}$ -inch pipe size between the boiler and the water glass so that the water glass is attached directly and as closely as possible to the boiler. The run of the tee or "Y" shall take the water glass fittings, and the side outlet or branch of the tee or "Y" shall take the fuel cutoff or water-feeding device. The ends of all nipples shall be reamed to full-size diameter.

c. Fuel cutoffs and water-feeding devices embodying a separate chamber shall have a vertical straightway drainpipe and a blowoff valve not less than $\frac{3}{4}$ -inch pipe size located at the lowest point in

the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

94.4(7) Stop valves for single steam heating boilers. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

94.4(8) Stop valves for multiple steam heating boilers. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

875—94.5(89) Hot water heating boilers installed before July 1, 1960. Hot water heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.5(1) Safety relief valves.

a. Each hot water heating boiler shall have at least one safety relief valve bearing the National Board “HV” stamp of the automatic-resetting type set to relieve at or below the maximum allowable working pressure of the boiler. The safety relief valve shall have pop action when tested by steam. When more than one safety relief valve is used on a hot water heating boiler, the additional valve or valves must bear the National Board “HV” stamp and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be so arranged that they cannot be reset to relieve at a higher pressure.

b. No safety relief valve shall be smaller than ¾-inch nor larger than 4½-inch standard pipe size, except those boilers having a heat input not greater than 15,000 Btu’s per hour may be equipped with a safety relief valve of ½-inch standard pipe size bearing the National Board “HV” stamp. The inlet opening shall have an inside diameter equal to or greater than the seat diameter. In no case shall the minimum opening through any part of the valve be less than ½-inch diameter.

94.5(2) Temperature and pressure gage.

a. Each hot water boiler shall have a temperature and pressure gage properly calibrated to the altitude connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

b. The scale on the dial of the temperature and pressure gage shall be graduated approximately to not less than one and one-half nor more than three times the pressure at which the safety relief valve is set. The gage shall be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point.

c. The temperature gage shall be so located and connected that it shall be easily readable. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

d. Piping or tubing for temperature and pressure gage connections shall be of nonferrous metal when smaller than 1-inch pipe size.

94.5(3) Temperature control.

a. In addition to the operating control used for normal boiler operation, each individual, automatically fired hot water boiler shall have a separate high-limit, temperature-actuated combustion control that will cut off the fuel supply to prevent the temperature of the water from rising over 250° F. Separate controls may have a common connection to the boiler.

b. In a multiple boiler installation where the operating temperature actuated control may be installed in a header or other point common to all boilers and can be isolated from any or all of the boilers, there shall be at least one high-limit, temperature-actuated combustion control mounted on each boiler.

94.5(4) Low-water fuel cutoff. Rescinded IAB 11/18/09, effective 1/1/10.

94.5(5) Stop valves.

a. On single hot water heating boilers, stop valves shall be located at an accessible point in the supply and return pipe connections as near the boiler nozzle as is convenient and practicable to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve shall be used in each boiler's supply and return pipe connection.

94.5(6) Provisions for thermal expansion in hot water heating system.

a. All hot water heating systems incorporating hot water tanks or fluid relief columns shall be so installed as to prevent freezing under normal operating conditions.

b. Systems with open expansion tanks require an indoor overflow from the upper portion of the expansion tank in addition to an open vent. The indoor overflow is to be carried within the building to a suitable plumbing fixture or to the basement.

c. An expansion tank adequate for the volume and capacity of the system shall be installed. If the system is designed for a working pressure of 30 psi or less, the tank shall be suitably designed for a minimum hydrostatic test pressure of 75 psi. Expansion tanks for systems designed to operate above 30 psi shall be constructed in accordance with ASME Code, Section VIII, Division I, in effect when installed. Provisions shall be made for draining the tank without emptying the system, except for prepressurized tanks.

d. The expansion tank capacities for gravity hot water heating systems shall be as follows:

Sq. Ft. of Installed Equivalent	Tank Capacity
Direct Radiation	Gallons
Up to 350	18
Up to 450	21
Up to 650	24
Up to 900	30
Up to 1100	35
Up to 1400	40
Up to 1600	2-30
Up to 1800	2-30
Up to 2000	2-35
Up to 2400	2-40
2400 and up	1 additional gallon per 33 square feet of additional equivalent direction radiation

e. The expansion tank capacities for forced hot water heating systems shall be based on an average operating water temperature of 195°F, a fill pressure of 12 psig, and a maximum operating pressure of 30 psig as follows:

System Volume, Gallons	Tank Capacity, Gallons
100	15
200	30
300	45
400	60
500	75
1,000	150
2,000	300

In calculating, include the volume of water in boiler, radiation and piping but not the expansion tank.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.6(89) Hot water supply boilers installed before July 1, 1960.

94.6(1) Scope. This rule establishes minimum requirements for installation, operation, and inspection of hot water supply boilers installed before July 1, 1960, when any of the following limitations are exceeded:

- a. Heat input of 200,000 Btu's per hour.
- b. Water temperature of 210°F.
- c. A water containing capacity of 120 gallons.

94.6(2) Safety relief valves. Each hot water supply boiler must have at least one pressure and temperature relief valve bearing the National Board "HV" stamp installed on the hot water outlet line.

94.6(3) Safety valves and safety relief valves for tanks and heat exchangers.

a. When a hot water supply vessel is heated indirectly by steam in a coil or pipe, the pressure of the steam used shall not exceed the safe working pressure of the tank. A safety relief valve at least 1 inch in diameter shall be installed on the tank and shall be set to relieve at or below the maximum allowable working pressure of the tank.

b. When water over 160° F is circulated through the coils or tubes of a heat exchanger to warm the water for space heating or hot water supply, the heat exchanger shall be equipped with one or more safety relief valves bearing the National Board "HV" stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 10 percent above the maximum allowable working pressure of the vessel. The valves shall be set to relieve at or below the maximum allowable working pressure of the heat exchanger.

c. When water over 160° F is circulated through the coils or tubes of a heat exchanger to generate low-pressure steam, the heat exchanger shall be equipped with one or more safety valves bearing the National Board "HV" stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 5 psig above the maximum allowable working pressure of the vessel. The valves shall be set to relieve at a pressure not to exceed 15 psig.

94.6(4) Gages. Temperature and pressure gages shall be installed in accordance with 94.5(2).

94.6(5) Temperature controls. Temperature controls shall be installed in accordance with 94.5(3).

94.6(6) Stop valves.

a. Stop valves shall be placed in the supply and return pipe connections of a single hot water supply boiler installation to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve shall be used in each boiler's supply and return pipe connection.

94.6(7) Thermal expansion. If a system is equipped with a check valve or pressure-reducing valve in the cold water inlet line, an airtight expansion tank or other suitable air cushion shall be installed. When an expansion tank is provided, it shall be constructed in accordance with the ASME Code, Section VIII, Division 1, in effect when installed, for a maximum allowable working pressure equal to or greater than the water heater. Except for prepressurized tanks, provisions shall be made for draining the tank without emptying the system.

These rules are intended to implement Iowa Code chapter 89.

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CHAPTER 96
UNFIRED STEAM PRESSURE VESSELS

[Prior to 9/24/86, Labor, Bureau of[530] Ch 209]
[Prior to 1/14/98, see Labor Services[347] Ch 48]
[Prior to 8/16/06, see 875—Ch 209]

875—96.1(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.
[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—96.2(89) Objects installed prior to July 1, 1983.

96.2(1) Maximum allowable working pressure.

a. The maximum allowable working pressure for code-stamped unfired steam pressure vessels shall be determined in accordance with the applicable provisions of the ASME Code or American Petroleum Institute Code under which they were constructed and stamped.

b. The maximum allowable working pressure on the shell of unfired steam pressure vessels without a code stamp shall be determined by the following equation.

TStE / RFS = Maximum allowable working pressure, psig.

Where:

TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.

t = Minimum thickness of shell plates of the weakest course, in inches.

E = Efficiency of longitudinal joint. For riveted joints, use ASME Code, Section 1 (1971). For fusion-welded and brazed joints, use the following table:

Table with 2 columns: Joint type and Efficiency value. Rows include Single lap welded (40), Double lap welded (60), Single butt welded (60), Double butt welded (75), Forge welded (70), and Brazed steel (80).

R = Inside radius of the weakest course of shell or drum in inches, provided the thickness does not exceed 10 percent of the radius. If the thickness is over 10 percent of the radius, the outer radius shall be used.

FS = Factor of safety shall be four.

c. The maximum allowable working pressure for noncode pressure vessels subjected to external or collapsing pressure shall be determined by the ASME Code, Section VIII.

96.2(2) Factor of safety. The inspector shall increase the factor of safety if the conditions and safety of the unfired steam pressure vessel demand it.

96.2(3) End closures. The maximum allowable working pressure permitted for formed heads under pressure shall be determined by using the formulas in ASME Code, Section VIII.

96.2(4) Safety appliances. Each unfired steam pressure vessel shall be protected by such safety and relief valves and indicating and controlling devices as will ensure its safe operation. Valves shall not readily be rendered inoperative. The relieving capacity of safety valves shall be such as to prevent a rise of pressure in the vessel of more than 10 percent above maximum allowable working pressure, taking into account the effect of static head. Safety valve discharges shall be carried to a safe place.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

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BABIES

See *BIRTH; CHILDREN; HOSPITALS: Nurseries; HOSPITALS: Obstetrics*

BAIL

Enforcement businesses, licensure **661**—ch 121

BALLOTS

See *ELECTIONS*

BANKRUPTCY

Depositories, hunting/fishing license **571**—15.6(7)
 Driver's license suspensions **761**—640.5(2)c
 Farmer/creditor mediation program **61**—17.17
 Hotels/motels **701**—104.5
 Liquor licensees **185**—4.19
 Mortgage bankers/brokers **187**—18.7(1)
 Motor vehicles, accidents, liability **761**—640.4(5)h, 640.5(2)c
 Radioactive materials licensees **641**—39.4(32)e,f
 Suppliers, state universities **681**—8.1(1)d
 Taxes
 Collection, fiduciaries **701**—13.13
 Distressed sales **701**—39.6
 Filing, returns **701**—12.7, 104.5
 Underground storage tanks, owner/operator **567**—136.19, 136.23
 Unemployment contributions, successors **871**—23.28(7)d
 Uniform Commercial Code (UCC), financing statements **721**—30.4(18)

BANKS AND BANKING

See also *LOANS; SAVINGS AND LOAN ASSOCIATIONS*

Accounts

Escrow, physical exercise clubs **61**—26.4, 26.7
 Joint, deaths, fund withdrawals **701**—86.1(6)

Advertising, see *Loans: Advertising below*

Articles of incorporation **187**—1.4(1)a(14), 2.1(5), 2.7

Bonds

Loans, beginning farmer **25**—2.9, 2.11, 2.12
 Revenue **265**—ch 4
 Surety **187**—2.11

Branch/mobile/convenience offices **187**—2.4, 2.5, 2.13, 2.17

Chartered, state, establishment **187**—2.1—2.4

Child support, administrative levy **441**—ch 98 Div. VII

Cigarette stamp sales **701**—82.5, 82.6, 82.11

Courier services **187**—2.17, 8.10

Credit

Cards, disclosure **781**—ch 5
 Discrimination **161**—ch 6

Custodian

Funds, public, see *Depositories, Public Funds below*

Insurance deposits/securities **191**—ch 32; **641**—201.13(2,3)

BANKS AND BANKING (cont'd)

Debit cards, *see Electronic Transfer, Funds below*

Debts

- Administrative levies **701**—ch 154
- Debt management company licensure **187**—2.9

Definitions **187**—1.1, 8.9, 9.3, 10.2, 18.1

Depositories, public funds

- Agreements **781**—13.4, 13.5, 13.9, 13.11, 13.13
- Collateral **781**—13.2, 13.4, 13.5, 13.7–13.10, 13.12
- Custodians **191**—ch 32; **781**—13.5–13.7, 13.9, 13.10
- Default **781**—13.11, 13.13
- Definitions **781**—13.2
- Duties **781**—13.4
- Forms **781**—13.3, 13.6, 13.7, 13.13(4)
- Liability **781**—13.7(6)
- Reports **781**—13.6(7,8), 15.2(13)
- Sale/merger **781**—13.10, 13.12
- Termination **781**—13.9, 13.11

Division

- Address **181**—1.6(1); **187**—5.1, 5.3, 6.1, 6.3, 7.3
- Adjudicative proceedings, emergency **187**—11.31
- Board **187**—15.5
- Bureaus **187**—1.3
- Commerce department authority **181**—1.4(2)
- Contested cases, *see Hearings this subheading below*
- Council, state **187**—ch 4
- Declaratory orders **187**—ch 6
- Forms **187**—1.4, 18.2(1)
- Hearings **187**—2.12, 2.14(5), ch 11
- Organization **187**—1.3
- Procurements **261**—ch 54; **541**—ch 10, *see also ADMINISTRATIVE SERVICES DEPARTMENT (DAS)*
- Records, *generally*, public/fair information **187**—2.12(3), ch 7
- Rule making **187**—ch 5, 7.15(1), ch 12
- Superintendent
 - Cash out merger **187**—2.3(6)
 - Definition **181**—1.5
 - Duties **187**—1.3, ch 2, 4.1, 11.31, 16.2–16.5, ch 19
 - Reports/records **187**—2.12(3,11), 15.3(7)

Election funds **351**—4.5

Electronic transfer, funds **187**—ch 10

Examinations **187**—1.3(1)e, 2.2(2), ch 3

Hearings, *see Division above*

Individual development accounts (IDA) **441**—ch 10

Interstate operations **187**—2.17(5)

Investigations **187**—2.1(2), 2.2(2), 2.4(2), 2.5(2), 2.6(2), 2.9(2), 2.13(3), 2.14(3), 2.15(4), 2.16(3), 18.9, 18.19, 18.20(2)e,f

Investments

See also Depositories, Public Funds above

- Banks, service corporations **187**—2.14
- Futures contracts **187**—2.16
- Individual development accounts (IDA) **441**—10.2(4)
- Linked investments for tomorrow (LIFT) program **781**—ch 4

*BANKS AND BANKING (cont'd)**Investments*

Rating services **187**—ch 8

Subsidiaries **187**—2.14, 2.15

Leases **187**—9.3

Life insurance, custodial accounts **191**—ch 32

Loans

Advertising **187**—18.16(9)g, 18.18

Disclosure **191**—5.50–5.55

Farmers **25**—chs 2, 4, 5; **61**—ch 17

Group home facilities **265**—ch 6

Housing, military service members **265**—ch 27

Insurance

Agricultural **25**—4.9(1)a(2)

Title **187**—9.2(5)b

Line of credit **61**—ch 16

Linked investments for tomorrow (LIFT) program **781**—ch 4

Loan and credit guarantee program **261**—ch 69

Real estate **187**—9.2

Revenue bond finance **265**—ch 4, 6.1

Service contracts **191**—54.50(5)c

Small business **261**—chs 51, 55, 69, 78; **265**—ch 5; **781**—ch 4

Soil conservation **27**—ch 11

Student **283**—ch 10

Wastewater treatment, on site **567**—93.4, 93.6

Locations **187**—2.5, 2.13, 2.17

Mergers **187**—2.3, 2.12; **781**—13.10, 13.12

Mortgage credit certificates (MCC) **265**—ch 10

Negotiable instrument sales **187**—2.11

Ownership, change **187**—2.6

Pollution emergency **567**—26.4 Table V“3”g

Records, *see Division above*

Repossessions, taxation **701**—34.17

Retirement facilities **191**—ch 24

Safe deposit boxes **701**—19.10(2)i, 26.8(4), 86.1(6), 219.11(2)i

Satellite terminals **187**—10.6

Securities, brokerage services **187**—2.15; **191**—50.19–50.22, *see also Investments above*

Service charges **701**—26.8

Staff, changes **187**—2.6(1)g

Stock **187**—2.6, 2.7

Subsidiaries **187**—2.14, 2.15

Taxation

See also Cigarette Stamp Sales above

Exemptions, federal **701**—40.2(1)c

Franchise **701**—chs 57–61, *see also TAXATION*

Land banks, federal

Interest/dividends, federal obligations **701**—40.2(1)c“5,6”

Property **701**—80.55(1)b

Sales/use **701**—16.10, 19.10(1)d, 19.10(2)i, 26.8, 34.17, 219.11(1)d, 219.11(2)i

Timber buyers, collateral **571**—72.3

Title guaranty program **265**—ch 9

Trusts, *see TRUSTS*

BARBERS

- Address/name change **645**—4.4(2,3), 21.11(1)e, 25.2(25)
- Advertising **645**—25.2(5)
- Board, barbering
 - See also PROFESSIONAL LICENSURE DIVISION**
 - Address **645**—4.4(1), 21.2(1)
 - Authority **645**—4.3(7)
 - Discipline **645**—4.2(3), 4.3(7)f, 4.13, 4.15(7), 24.7, ch 25
 - Hearings **645**—4.15(3,4), 5.2(17)
 - Meetings **645**—4.3, 4.6, 13.3, ch 17
 - Public health department support **641**—170.4(1)
 - Schools **645**—ch 23
- Child support noncompliance **641**—ch 192; **645**—ch 14
- Competency **645**—4.15, 25.2(2), 25.2(31)e,f
- Complaints **645**—4.3(7)e,i
- Conduct **645**—25.2
- Continuing education
 - Definitions **645**—24.1
 - Exemptions **645**—4.12, 4.14
 - Hearings **645**—5.2(17)
 - Hours **645**—21.16(4), 24.1, 24.2
 - Records/reports **645**—4.11, 25.2(22)
 - Standards **645**—24.3
- Debts, state, noncompliance **645**—ch 194
- Definitions **645**—4.1, 21.1, 23.1, 24.1, 25.1
- Discipline, *see Board, Barbering above*
- Education, *see Continuing Education above; Schools below*
- Equipment **645**—22.11–22.15, 23.10(2), *see also Schools below*
- Ethics **645**—25.2(3,31)
- Fraud **645**—25.2(1,3,5,9)
- Grants, tuition **283**—ch 17
- Impaired practitioner review committee **641**—ch 193; **645**—ch 16, 25.2(33)
- Instructors **645**—5.2(1,2), 21.2(3), 21.3, 21.16(4), 23.7“5,” 23.8, 23.9, 24.3(1)c
- Licenses
 - Applications **645**—21.2, 23.2, *see also subheadings Reinstatement below; Renewal below*
 - Apprenticeships **645**—23.15
 - Certificates/wallet cards **645**—4.8, 4.9, 5.2(14), 21.9(4), 21.12(5), 22.3(3)
 - Denial **641**—192.1, 194.2, 195.2; **645**—4.10
 - Display **645**—21.9(2)c, 22.3
 - Endorsements **645**—21.5
 - Examinations **645**—4.15, 5.2(4), 21.1, 21.2(1)e,f, 21.3, 21.5(3), 25.5, 26.1(4)
 - Fees **641**—192.2(5), 194.2(5), 195.3(7); **645**—5.2, 21.9(3), 21.12(8)
 - Inactive **645**—21.1, 21.9(5), 21.12(8), 21.16, 23.1, 23.4, 24.1, 25.2(26,27)
 - Instructors **645**—5.2(1,2), 21.2(3), 21.3(1)c(2), 24.2(1)
 - Reactivation **645**—5.2(11–13), 21.1, 21.12(8), 21.16, 21.17, 23.4, 24.2
 - Reciprocity **645**—5.2(1), 21.6
 - Reinstatement **641**—192.1, 192.2(5,7), 194.3(5), 195.3(7); **645**—5.2(12), 21.1, 21.18
 - Renewal **641**—192.1, 192.2(5), 194.2, 194.3(5), 195.2, 195.3(7); **645**—5.2(2,7,9,10), 21.9, 21.11(1)g, 21.12, 23.2(9), 23.3, 23.4, 24.2, *see also Continuing Education above*
 - Schools **645**—5.2(6,7,13), 23.1–23.4

*Rules **645**—chs 4, 6–18 apply to all professional licensure boards

*BARBERS (cont'd)**Licenses*

Shops **645**—5.2(8,9,12), 21.11, 21.12, 21.17

Suspension/revocation **641**—192.2, 194.3, 195.3; **645**—25.2(13,26,27), 25.3“1,2”

Loans, student, noncompliance **641**—ch 195; **645**—ch 15

Malpractice **645**—25.2(16)

Nursing facilities **481**—61.6(5)

Permits **645**—5.2(3,5), 21.2(3)*d*, 21.7, 21.8, 22.3(2); **701**—26.9

Pets **645**—22.20

Pollution emergency **567**—26.4 Table V“3”*h*

Records **645**—25.2(8), *see also Continuing Education above*

Reports **645**—25.2(14–16,22,23,25)

Residential care facilities **481**—60.6(6)*a*

Sanitation **645**—ch 22, *see also Schools below; Shops below*

Schools

Certificates/wallet cards **645**—4.8, 4.9, 5.2(14), 22.3

Curriculum **645**—23.8

Equipment/facilities **645**—23.6, 23.7

Instructors, *see Instructors above*

License, *see Licenses above*

Sanitation **645**—23.6“7”

Students **645**—23.9–23.13

Veterans training **281**—52.8, 52.13, 52.15

Scope of practice **645**—25.2(4)

Shops

Buildings, standards **645**—22.5

Display, license/rules **645**—22.2, 22.3, *see also Licenses above*

Equipment, *see Equipment above*

In-home **645**—22.6

Inspections **645**—22.2

Location **645**—22.6, 22.7

Owners **645**—22.4

Sanitation **645**—21.11(1)*b*

Taxation **701**—18.31, 26.9

Violations **645**—4.3(7)*e*, *see also Board, Barbering: Discipline above*

BARGAINING

Collective, *see PUBLIC EMPLOYMENT RELATIONS BOARD (PERB)*

BARGES

Fleets, mooring areas

Boating/fishing **571**—17.3(8,9), 17.6(3,5)

Construction **571**—17.3(4), 17.7(2)*i*

Hazards/safety **571**—17.3(9), 17.6(4)

Permits

Application **571**—17.7–17.9

Fees **571**—17.10

Hearings **571**—17.8

Natural resources department **571**—17.2, 17.3(11)

Renewal **571**—17.3(2), 17.13

Revocations/terminations **283**—37.1; **441**—ch 98 Div. VIII; **571**—17.11, 17.14; **701**—ch 153

Transfer **571**—17.3(6)

Permitted activities **571**—17.3(5)

Property owners, riparian **571**—17.4, 17.7(2)*e,h,j*

BARG

BARGES (cont'd)
Fleets, mooring areas

Reports **571**—17.12
Restrictions/prohibitions **571**—17.3(7), 17.4—17.6
Gambling, building/fire code requirements **491**—5.4(18)
Oil transporters **565**—51.1(35), 51.4, 51.11, 51.14(2)
Reports, fuel transportation **701**—68.17
Tax exemption **701**—32.6

BARNS

Preservation, taxation credit/exemption **223**—ch 48; **701**—42.15, 52.18, 80.15

BARRELS AND DRUMS

Agricultural products storage **701**—26.42(4)*m*
Boat docks **571**—16.3(8)
Gas
Liquefied petroleum **661**—226.1, 226.2
Sales, taxation **701**—18.2
Oil **565**—51.1(4,18)

BARS

See BEER AND LIQUOR

BASEBALL

See ATHLETICS

BATHHOUSES

See SWIMMING: Pools

BATTERIES

Cathode ray tubes (CRTs), disposal **567**—122.3, 122.15, 122.16, 122.24(1)*b*(4)
Emissions **567**—23.1(2)*hh*, 23.1(4)*l, ep*
Household, disposal **567**—ch 145
Landfills **567**—113.8(1)*b*(14)

BEAUTICIANS

See COSMETOLOGY AND COSMETOLOGISTS

BED AND BREAKFAST HOMES

See HOMES, HOUSING

BEEF

See MEAT

BEEF INDUSTRY COUNCIL

Address **101**—2.1
Declaratory orders **101**—2.3
Excise tax
Refunds **101**—3.2
Remittance date **101**—3.1, 3.3
Suspension **101**—3.4
Executive director **101**—1.3
Forms **101**—1.7
Informal settlements **101**—2.2
Market development **101**—1.1, 1.3
Meetings **101**—1.4—1.6
Membership **101**—ch 4
Officers **101**—1.2

BEEF INDUSTRY COUNCIL (cont'd)

Purpose **101**—1.1

Records, *generally*, public/fair information **101**—ch 5

Rule making **101**—2.4

BEER AND LIQUOR

See also SUBSTANCE ABUSE

Administration **181**—1.5; **185**—chs 1–3, *see also Alcoholic Beverages Division below*

Advertising

Prohibited statements/references **185**—17.7

Trade practices, *see Trade Practices below*

Age requirements **185**—4.25, 17.5(4)

Alcoholic beverages division

Generally **185**—chs 1–3

Address **181**—1.6(3); **185**—1.7, 18.3

Adjudicative proceedings, emergency **185**—10.31

Administrator **181**—1.5; **185**—1.5, 1.6, 4.1(6)

Appeals **185**—10.25, 10.27, 19.10

Bureaus **185**—1.6

Central offices **185**—1.6

Commerce department supervision **181**—1.4(8)

Commission **185**—1.5

Complaints **185**—12.2(13), 18.11(2)

Contested cases **185**—ch 10

Declaratory orders **185**—ch 3, 18.14(3)

Duties **181**—1.4(8); **185**—1.4

Ex parte communications **185**—10.23

Hearings **185**—7.4, ch 10, 12.2(13)

Inspections **185**—5.1(8), 5.3(6)

Investigations **185**—5.4, 18.10(2)*b*, 18.12(1)*c*

Procurements, *see SMALL BUSINESS: Targeted*

Records, *generally*, public/fair information **185**—1.7(3), 12.2(12), ch 18, 19.6

Rule making **185**—ch 2, 18.15(1)

Waivers **185**—ch 19

Audits **185**—18.10(2)*e*, 18.13(2)*f*, 18.14(5,8); **481**—5.16(4)

Beverage containers

See also BEVERAGES

Kegs/tanks **567**—107.8(4)

Labels **185**—8.2(3,4), 14.2; **567**—107.1, 107.3, 107.8(4); **875**—110.1(5)*c*

Removal from premises **185**—4.7(6)

Bonds **185**—4.13, 5.7(1), 5.9, 12.2(7–11)

Breath/urine/blood tests **661**—ch 157

College events **681**—12.7(12)

Complaint procedure, *see Alcoholic Beverages Division above*

Conventions/meetings **11**—100.4(8), 114.7(6); **185**—4.22; **223**—1.5(6)*a*(3); **288**—2.1(3)*c*

Coupons/rebates **185**—16.14

Definitions **185**—4.1, 4.4, 4.23(4), 5.1(1), 14.1, 16.1, 17.1, 18.1; **701**—15.3(6)

Delivery **185**—4.32, 4.33, *see also Shipments below*

Discrimination **185**—14.7

Dramshop liability insurance **185**—4.13, 4.18(1), 5.7(1), 5.8, 12.2(12), 18.10(2)*g*(2)

Establishments

See also Licenses/Permits below; Sales, Retail Establishments below

Amusement devices **481**—chs 104, 105

*BEER AND LIQUOR (cont'd)**Establishments*

- Class "E" licensees **185**—ch 17
- Consumption, unlawful **185**—4.24, 4.27, 4.28
- Fire safety, *see BUILDINGS; FIRE AND FIRE PROTECTION*
- Gambling **185**—4.9; **481**—100.2(2)c, ch 102
- Illegal activities **185**—4.7–4.9, 4.28
- Local ordinances **185**—4.3
- Lottery ticket sales **531**—1.8
- Minors **185**—4.35
- Outdoor service **185**—4.13
- Property **185**—16.2
- Smoking **641**—ch 153
- Toilet facilities **185**—4.2

- Federal trade practices **185**—16.1
- Food service establishments **481**—31.10
- Forfeited **61**—33.4(5)
- Forms **185**—5.8(6,7), 7.1(1), 7.3(1)d, ch 12, 14.2
- Fuel alcohol **185**—4.30
- Grants, Iowa wine and beer promotion program **261**—ch 33
- Historical building functions **223**—1.5(6)a(3)
- Hotel/motel rooms **185**—4.41, *see also Conventions/Meetings above*
- Insurance, dramshop liability, *see Dramshop Liability Insurance above*
- Judgment, execution **185**—4.19
- Keggers **571**—ch 63, *see also Beverage Containers above*
- Labeling, *see Beverage Containers above*
- Licenses/permits
 - Generally* **185**—1.5(1)b, 4.4, 5.8(8); **481**—105.2
 - Age requirements **185**—4.25
 - Application **185**—4.2, 4.26, 5.6, 5.8(10)
 - Bond requirements **185**—5.7(1), 5.9, 12.2(7–11)
 - Cancellation **185**—4.16
 - Classifications **185**—4.24, 4.40, 5.1(3), ch 17
 - Combination **185**—4.38
 - Display **185**—4.12, 4.15
 - Eligibility **185**—4.4, ch 5
 - Entitlement, investigation **185**—5.4
 - Fees **185**—4.34, 17.8, 18.16
 - Investigations **185**—5.4; **481**—1.4"3," 74.4
 - Living quarters **185**—5.6
 - Manufacturers/wholesalers **185**—5.3, 5.4, 12.2(8,10,11); **283**—ch 37; **441**—ch 98 Div. VIII; **701**—15.3(6), ch 153
 - Native wine manufacturing **185**—5.1(3)
 - Outdoor service **185**—4.13
 - Ownership change **185**—4.36, 5.7
 - Physicians/pharmacists **185**—5.3(4)
 - Premises **185**—4.4, 4.7, 5.7
 - Price determination **185**—4.34
 - Prohibited practices **185**—4.7–4.9, 4.17, 4.24, 4.27, 4.28, 4.31, 4.41
 - Public broadcasting facilities **288**—2.1(3)c,d
 - Records **185**—18.14(1,4,8), 18.15(4), 18.16; **481**—5.16(4)
 - Refunds **185**—4.16
 - Renewal **185**—4.26, 4.40, 5.8(10)
 - Sanitation requirements **185**—4.2; **481**—31.10

*BEER AND LIQUOR (cont'd)**Licenses/permits*

Sunday sales **185**—4.38

Suspension/revocation **185**—1.5(1)*b*, 4.8, 4.9, 4.14, 4.15, 4.20(1), 4.27, 10.31, 16.24; **283**—37.1;
441—ch 98 Div. VIII; **481**—ch 8; **701**—ch 153

Transfers **185**—4.18, 5.7(2)*d*

Manufacturers/wholesalers

Coupons/rebates **185**—16.14

Definition **185**—16.1(1)

Discrimination **185**—14.7

Gifts **185**—7.2(3)

Licenses, *see Licenses/Permits above*

Purchasers, identification **185**—5.3(3)

Records **185**—5.3(4–6), 16.20; **701**—15.3(6)

Representatives **185**—chs 7, 16

Retail establishment interest **185**—16.2

Trade practices, *see Trade Practices below*

Wine, *see Wine below*

Ordinances, local **185**—4.3

Parks/recreation areas **571**—ch 63

Permits, *see Licenses/Permits above*

Private use **185**—4.23, 4.41; **223**—1.5(6)*a*(3)

Purchases, retail licensees **185**—4.20–4.22

Sales, retail establishments

See also Manufacturers/Wholesalers: Representatives above

Age requirements **185**—4.25, 17.5(4)

Checks **185**—4.20

Coupons/rebates **185**—16.14

Definition **185**—16.1(2)

Election days **185**—4.37

Exemption, tax **701**—15.3(6)

Judgment, execution **185**—4.19

License requirements, *see Licenses/Permits above*

Manufacturers/wholesalers, ownership/interest **185**—16.2

Out-of-state **185**—5.3(2)

Price **185**—1.5(1)*c*, 16.15, 16.23

Sunday **185**—4.38

Wine, *see Wine below*

Shipments

See also Delivery above

Changes, division notification **185**—8.2(5)

Invoicing instructions/billing **185**—8.2(7–10,12)

Labeling requirements **185**—8.2(3,4)

Native wine **185**—5.1(9)

Purchase orders **185**—8.2(2)

Records **185**—5.3(5)

Warehouse delivery **185**—8.2(1)

State governmental facilities **11**—100.4(8), 114.7(6); **223**—1.5(6)*a*(3); **288**—2.1(3)*c*

Storage **185**—4.17, 4.31, 4.40, 16.21

Taxation **185**—5.1(10,11), 18.13(2)*b*; **701**—15.3(6), 15.12(2)*a*, 17.29, 231.3(2)

BEER AND LIQUOR (cont'd)

Trade practices

Accounts, credit/prepaid **185**—16.7

Advertisements

Costs **185**—16.5(1), 16.16(1)

Materials/signs **185**—16.5(2,3,5,6), 16.13, 16.15

Publications **185**—16.5(4)

Bribery **185**—16.17, 16.18

Contracts **185**—16.22

Definitions **185**—16.1

Discounts **185**—16.23

Displays, product **185**—16.3, 16.15, 16.16, 17.7

Equipment/fixtures/furnishings **185**—16.1(3), 16.4, 16.17

Packaging, combination **185**—16.9

Penalties, *see Violations this subheading below*

Prohibitions **185**—16.2

Records **185**—16.20

Sales

Accessories/cleaning services **185**—16.11

Consignment **185**—16.19

Product returns **185**—16.19

Quotas **185**—16.8

Wine lists **185**—16.12

Samples **185**—7.3(1)f, 16.10

Seminars **185**—16.16

Sponsorships **185**—16.17

Supplies **185**—16.6, 16.11, 16.12

Violations **185**—7.4, 16.17, 16.24, 16.25

Transportation, common carriers **185**—8.1

Violations **185**—4.8, 4.9, 4.20, 7.4, 16.17, 16.24, 16.25, 19.8, *see also Alcoholic Beverages Division: Complaints above*

Warehouses, *see Storage above*

Wholesalers, *see Manufacturers/Wholesalers above*

Wine

See also VINEYARDS

Fund, grape and wine development **21**—ch 52

Lists **185**—16.12

Native, manufacturer requirements, *generally* **185**—5.1; **701**—15.3(6), 15.12(2)a, 17.29

Permits/licenses **185**—chs 4, 5, 17.5(3), *see also Licenses/Permits above*

Private sales

Discrimination **185**—14.7

Label approval **185**—14.2

Price posting **185**—14.4, 14.5

Promotion, Iowa wine and beer grant program **261**—ch 33

Retailers, purchases **185**—4.21

Sacramental, transport **185**—8.1(2)

BEES

Diseases/parasites **21**—ch 22

Farm definition **871**—23.26(1)

Honey

- Sales **481**—30.2, 31.1(1)
- Transportation **761**—400.47

Honeybees, transportation **21**—22.9, 22.10; **761**—400.47

- Inspections, apiarist **21**—ch 22
- Pesticides, protection **21**—45.31
- Records **21**—6.14(5)*a*
- Sales **21**—22.3, 22.11
- Species, undesirable **21**—22.8

BEHAVIORAL SCIENCE BOARD

See also *PROFESSIONAL LICENSURE DIVISION**

Address **645**—4.4(1)

Counselors/therapists

- Abuse identification/reporting **645**—31.1, 31.10(4)
- Address/name change **645**—4.4(2,3), 33.2(25)
- Advertising **645**—33.2(6)
- Child support noncompliance **641**—ch 192; **645**—ch 14
- Continuing education **645**—4.11, 4.12, 4.14, 31.10(3), ch 32, 33.2(22)
- Discipline **645**—4.2(3), 4.3(7)*f*, 4.13, 4.15(7), 5.3(8), 32.6, ch 33
- Ethics **645**—33.2(1,29)
- Impaired practitioner review committee **641**—ch 193; **645**—33.2(31)
- License **641**—chs 192, 194, 195; **645**—4.10, 5.3, ch 31, 33.2(2,14,26,27), 33.3
- Loans, student, noncompliance **641**—ch 195; **645**—ch 15
- Records **645**—31.12
- Reports **645**—33.2(15–17,22,23,25), 33.5(1)*f*
- Scope of practice **645**—33.2(5)

Debts, state, noncompliance **645**—ch 194

Definitions **645**—4.1, 31.1, 32.1, 33.1

Hearings **645**—4.10(2), 5.3(8), 33.5(3,4)

Medical assistance providers **441**—77.26, 78.29, 79.1(2)p.3, 79.3(2)*d*(39)

Meetings **645**—4.3, 4.6, 13.3, ch 17

BENEVOLENT ASSOCIATIONS

Bylaws **191**—8.3

Directors/officers **191**—8.5(3), 8.10

Expenses **191**—8.5(3), 8.6

Fees **191**—8.3(1), 8.5

Insurance commissioner **191**—8.3, 8.6, 8.12

Members

- Assessments **191**—8.3(1), 8.4, 8.5
- Beneficiaries **191**—8.8
- Cancellation, membership **191**—8.4(1)
- Claims **191**—8.5(2), 8.7
- Eligibility **191**—8.3(1), 8.4(1)

Mergers **191**—8.9

Reports, annual **191**—8.12

*Rules **645**—chs 4, 6–18 apply to all professional licensure boards

BENEVOLENT ASSOCIATIONS (cont'd)

Reserves **191**—8.6
 Secretary of state **191**—8.3
 Stocks **191**—8.3(2), 8.11

BETTING

See GAMBLING; RACING AND GAMING

BEVERAGES

Alcoholic, *see BEER AND LIQUOR*

Containers

Generally **567**—107.1
 Collection receptacles, tax exemption **701**—32.7
 Condition **567**—107.7, 107.8(2)
 Definitions **567**—107.2
 Deposits **567**—107.1, 107.8(1,3,4), 107.15
 Exemptions **567**—107.2, 107.8(1)
 Fairgrounds **371**—4.28(4)
 Interstate carriers **567**—107.8(1)
 Labels **567**—107.3, 107.8(1)
 Pickup **567**—107.9
 Recycling **567**—ch 106, 107.5
 Redemption
 Centers **567**—107.1, 107.4, 107.8(5), 107.12, 107.13
 Dealers **567**—107.1, 107.2, 107.4(3,4), 107.8(3,5,6)
 Refunds, payment **567**—107.13, 107.14
 Sales tax **567**—107.15; **701**—17.17, 18.7, 32.7
 Transfer tanks **567**—107.8(4)
 Vending machines **567**—107.8(3)
 Sales tax **701**—18.15, 18.26, 20.1(2)c, 20.1(3)b, *see also Containers above*

BICYCLES

Definitions **681**—4.2, 4.26
 Iowa State University (Ames)
 Impoundment **681**—4.31(3)
 Lanes **681**—4.27(4,7)
 Parking **681**—4.29(9), 4.31(3)
 Penalties **681**—4.30(10), 4.31
 Racks **681**—4.29(9)
 Registration **681**—4.28
 Riding regulations **681**—4.27(8)

Motorized

Licensure, *see MOTOR VEHICLES: Licenses*
 Lights **761**—450.4(16)
 Registration **761**—400.58(2)
 Repair facilities **761**—425.12(4)e
 Speed, maximum **761**—400.58(1)
 Taxation, wash/wax **701**—26.11
 Training, operators/instructors **761**—ch 636

Repairs, tax **701**—26.31
 Trails **571**—67.5, 67.8
 University of Iowa (Iowa City)
 Impoundment **681**—4.5(9), 4.7(3)
 Lanes **681**—4.3(4)
 Parking **681**—4.5, 4.6(7,8), 4.7

BICYCLES (cont'd)

University of Iowa (Iowa City)

Penalties **681**—4.6(9), 4.7
 Racks **681**—4.5(8)
 Registration **681**—4.4(4), 4.5(9)

University of Northern Iowa (Cedar Falls)

Impoundment **681**—4.71(3)
 Parking **681**—4.69
 Penalties **681**—4.70(9), 4.71
 Racks **681**—4.69(8)
 Registration **681**—4.68

BIDS AND BIDDING

Administrative services department (DAS) **11**—4.13(2)*b*, 4.14(6)*e*, 100.6(6), 105.2, 111.1, 111.3, *see also*
ADMINISTRATIVE SERVICES DEPARTMENT (DAS): General Services Enterprise: Procurement, Goods/
Services

Agricultural lease program **571**—21.4
 Attorney general records **61**—2.13(2)*a*
 Concessions **571**—ch 14
 Elder affairs department **321**—5.15(8,10,11)
 Finance authority, Iowa **265**—ch 15
 Fishing, commercial **571**—82.1
 Lottery authority
 Advertising **531**—2.4
 Appeals **531**—2.7(1), 2.17
 Blanket agreements **531**—2.6
 Competition **531**—2.1, 2.5
 Contracts **531**—2.1, 2.2(3), 2.5
 Investigations, background/criminal history **531**—2.16
 Methods **531**—2.2
 Modifications/withdrawals **531**—2.13
 Opening **531**—2.2(1), 2.13
 Rejections **531**—2.8, 2.15
 Security **531**—2.14
 Selection, vendors **531**—2.7, 2.9–2.11
 Specifications **531**—2.8
 Submission **531**—2.2(3), 2.12
 Tie bids **531**—2.11
 Management department authority **541**—2.7(2)*c*
 Natural resource commission **571**—14.2, 14.3, 21.4, 26.6
 Natural resources department **561**—ch 8
 Petroleum underground storage tanks
 Liability transfers, board **591**—9.5
 Remediation contractors **591**—13.3, 13.4, 13.6
 Printing services **11**—105.16(4)
 Property, state
 Acquisition, office furniture **11**—100.6(6)
 Sales, surplus **11**—111.1, 111.3
 Regents institutions
 Eligibility **681**—8.1(1)
 Employment policy **681**—7.6(3), 8.1(1)*d*(7), 8.6(3)
 Equipment **681**—8.2
 Exceptions **681**—8.1(1)*f*
 Insurance **681**—8.4

*BIDS AND BIDDING (cont'd)**Regents institutions*

Security **681**—8.4(3), 8.6(2,4)

Targeted small business **681**—7.7, 8.1(2), 8.6(5)

School bus purchases **281**—43.25

Small business procurement, *see* *SMALL BUSINESS*

Soil conservation division **27**—6.2

Telecommunications and technology commission

Appeals **751**—5.7(2), 5.17—5.19

Blanket agreements **751**—5.6

Contracts

Professional services **751**—ch 6

Purchase agreements **751**—5.5

Small business **751**—5.4(3)

Investigations, background/criminal history **751**—5.16

Modifications/withdrawals **751**—5.13

Notice **751**—5.4

Opening **751**—5.2, 5.12, 5.13

Rejections **751**—5.15

Security **751**—5.14

Selection, vendors **751**—5.7, 5.9, 5.10, 5.16

Specifications **751**—5.8

Submission **751**—5.9, 5.12

Tie bids **751**—5.11

Transportation department

Advertising **761**—20.2(4), 20.3(1), 20.4(2)*d*

Contracts **761**—20.4(6,7)

Definitions **761**—20.2

Limited solicitation **761**—20.3(2), 20.5

Modifications/withdrawals **761**—20.4(3)*n,o*

Opening **761**—20.4(4)

Records **761**—4.9(18), 4.9(20)*a*(4,6)

Rejections **761**—20.4(5)

Security **761**—20.4(3)*m*

Submission **761**—20.4(3)

Targeted small business **761**—20.4(1)*a*, 20.4(2)*e*

Taxation, exemption **761**—20.4(3)*h*

Tie bids **761**—20.4(3)*j*, 20.4(6), 20.5(4)

Welcome center projects **261**—34.4(5)*c,d*

BILLBOARDS

See *ADVERTISING*

BILLS OF LADING

Motor carriers **761**—524.13

BILLS OF SALE

Feedlots, sheep/goats **21**—64.211(4)

Markets, livestock, veterinary signature-stamped **21**—64.200, 64.204

Vehicle registration/ownership

Boats **571**—20.5

Construction, special **761**—400.16(1)*b*

Foreign jurisdictions **761**—400.4(3)*e*(1)

Identification number **761**—400.51(2)*b*

Non-Iowa **761**—500.22

BILLS OF SALE (cont'd)*Vehicle registration/ownership*

- Peace officers **761**—400.4(6)
- Salvage, component parts **761**—405.15(1)*d*, 405.15(3)
- Temporary use **761**—400.19
- Trailers **761**—400.4(3)*f*

BINGO

See *GAMBLING*

BIODIESEL/BIOFUEL

See *FUEL*

BIOTECHNOLOGY

See also *ECONOMIC DEVELOPMENT DEPARTMENT: Life Science Enterprises*

- Businesses, taxation incentives **261**—59.2, 59.6(3)*c*(5), 64.4(4), 68.1, 68.4(4)*c*; **701**—42.2(10)*b*, 42.27(2)*b*, 52.28(2)*b*
- Grow Iowa values financial assistance program **261**—74.6
- Life sciences enterprises **261**—ch 67

BIOTERRORISM

- Biological agent risk assessment **641**—ch 112
- Livestock disease, reports **21**—64.1

BIRDS

See also *HUNTING; POULTRY*

- Collection/rehabilitation/education permits **571**—ch 111
- Disease control **21**—64.1, 64.191(2)*h*, 65.3(1); **571**—112.11
- Endangered species **571**—77.2
- Exhibition, veterinary inspection **21**—60.4, 64.34(1,7,9), 64.35(4)
- Exotic/pet **21**—65.11(3)*a*(2)
- Importation **21**—65.3(1), 65.11(3)*a*(2); **571**—77.4
- Nests, salvage permit **571**—111.3
- Nuisance control **571**—ch 114
- Pet shops **21**—ch 67
- Stamps, waterfowl **571**—ch 9, 92.2
- Taxation, domesticated fowl **701**—17.9(2)
- Taxidermists, waterfowl **571**—ch 93
- Unprotected **571**—76.1(1)

BIRTH

- Adolescent parenting **441**—ch 163
- Adoptions, see *ADOPTION*
- Centers **441**—77.27, 78.30, 79.1(2) p.3; **641**—3.1, 3.7, 3.9
- Certificates
 - Amendments **641**—96.4, ch 102
 - Cancellation **641**—99.10, 104.2
 - Confidentiality **641**—96.6(4), 103.1(4), 104.1(3)
 - Copies **641**—96.2, 96.4, ch 100, 104.1
 - Corrections **641**—ch 102
 - Definitions **641**—96.1
 - Delayed registration **641**—99.1–99.11
 - Fees **641**—ch 95, 96.4
 - Foreign-born **641**—100.3(2)
 - Forms **641**—98.1, 99.11, 100.1, 100.2
 - Legitimation **641**—99.6, 100.2, 100.4
 - Name change **641**—102.7–102.10
 - Parents **641**—99.1, 99.4, 99.5, 99.7, 100.4, 100.6, 102.1(1)

*BIRTH (cont'd)**Certificates*

Paternity **641**—99.6, 100.2, 100.4(1), 100.5, 102.6

Preparation **641**—98.2

Rape **441**—41.22(11)*a*

Records **641**—96.1, 96.6(4), 99.9, 103.1(4), ch 104, 175.13(2)*b*, *see also VITAL STATISTICS*

Registrar, duties **641**—95.8, 96.6(5), 99.2, 99.8, 99.9, 99.11, 100.3, 100.7, 102.2, 102.3, *see also VITAL STATISTICS*

Reissuance **641**—ch 100

Congenital/inherited disorders

Reporting **641**—1.1, 1.15, 4.4(3), 175.13(2)*e*(4,5)

Screening **641**—ch 4

Control, *see FAMILY PLANNING SERVICES*

Deaths

Maternal **641**—ch 5

SIDS, autopsies **641**—127.4(2)*e*

Eye treatment **641**—1.7

Foundlings **641**—99.1

Hospital facilities **481**—51.32; **641**—3.1, 3.6, 3.9, chs 75, 150, 203.9, *see also HOSPITALS*

Indigents, *see Welfare below*

Insurance, postdelivery care **191**—70.8, ch 81

Maternal health centers **441**—77.23, 78.25, 79.1(2)*p*.9; **641**—75.5(10), ch 76

Maternity leave **11**—63.3(1), 63.4(1)*a*; **681**—3.145

Medical assistance

Generally **441**—75.1(20,24,28)

Birth centers **441**—77.27, 78.30, 79.1(2)*p*.3

Child medical assistance program (CMAP) **441**—75.1(15)

Maternal health centers **441**—77.23, 78.25, 79.1(2)*p*.9

Pregnancy, high-risk, *see HUMAN SERVICES DEPARTMENT: Medical Assistance (Medicaid)*

Midwives, *see NURSES*

Out-of-wedlock **441**—41.21(3); **641**—96.6(4), 103.1(4)

Records

See also Certificates above

Hospital **481**—51.12(2)*c*

Lost **641**—99.4

Paternity, declaration **641**—ch 105

Registration, *see Certificates above*

Unemployment compensation, pregnancy **871**—24.22(1)*a*, 24.26(5,6)

Welfare

See also Medical Assistance above

Hospital care **641**—ch 75

Unborn, eligibility **441**—40.25, 41.21(3), 41.28(1)

BLACKLEG

Livestock disease **21**—64.15, *see also LIVESTOCK*

BLACK PERSONS

See STATUS OF AFRICAN-AMERICANS DIVISION

BLACKSMITHS

Sales tax **701**—16.17

BLIND

See also BLIND, DEPARTMENT FOR THE; BRAILLE AND SIGHT-SAVING SCHOOL

Aliens, food assistance eligibility **441**—65.37(1)
Certified disability program **11**—50.1, 54.4(2), 55.1(3)
Children, data collection **281**—5.14(11)
Definitions **111**—1.4, 7.2
Discrimination **111**—7.20, 10.9(1,3), 11.10(1,3); **191**—15.11(2)
Education, *see* EDUCATION: Special
Employment program, self (ISE) **281**—56.37–56.41
Entrepreneurs with disabilities program, *see* Employment Program, Self (ISE) above
Funds, *see* BLIND, DEPARTMENT FOR THE
Guide dogs **111**—9.3; **645**—22.20, 63.21; **681**—12.7(1), 13.18
Insurance, discrimination **191**—15.11(2)
Medical assistance **441**—75.1(4,5,17,25), 75.5(3)c(5), 78.6, 78.7, 83.1–83.9
Pensions **111**—7.16(5); **871**—24.13(4)g
Records, student **281**—5.14(11)
School, state **681**—ch 15
Supplementary assistance, state **441**—chs 50–52, 54
Taxation, exemption credit **701**—42.2(1)f
Unemployment benefits **871**—24.13(4)g
Utility service disconnection **199**—19.4(15)d(8), 20.4(15)d(9)
Vendors **11**—100.5; **111**—1.11(2), chs 7, 8, *see also* BLIND, DEPARTMENT FOR THE
Visual aids/services **441**—78.6, 78.7
Vocational rehabilitation **111**—5.13, 7.1, chs 9–11, 13.13(3,4); **281**—56.9, *see also* Employment Program, Self (ISE) above

BLIND, DEPARTMENT FOR THE

Address **111**—1.3
Adult orientation/adjustment center **111**—1.7, ch 9, 13.13(3)
Appeals **111**—7.10(13), 7.17(5), ch 8, 10.9, 11.10(2,4), 12.11
Business enterprises, *see* Vendors, Business Enterprises Program below
Commission
 Generally **111**—1.1, 1.5
 Hearings **111**—8.1(2)
 Meetings **111**—1.5(1), 8.1(2)d
 Rule making **111**—ch 3
Declaratory orders **111**—ch 5
Definitions **111**—1.4, 7.2, 8.2(1), 13.1
Discrimination **111**—7.20
Disputes, administrative review/mediation **111**—10.8, 11.9(1,2)
Facilities, public/private use **111**—1.9, 1.10, 1.13
Federal regulations
 Generally **111**—5.13, 7.1, 7.2, 7.19, 8.2(1), 10.2, 10.6, 10.8(4)e, 10.10
 Property, vending facilities **111**—7.2, 7.16
Forms **111**—6.5, 10.3, 10.10, 11.11
Funds
 Gifts/bequests **111**—1.11(1)
 Vending facilities **111**—1.11(2)
Grants **111**—1.11, 10.6(1); **281**—56.37–56.41
Hearings **111**—ch 8, 10.8, 11.9(1,4)
Independent living rehabilitation services **111**—ch 11, 13.13(3,4)
Library **111**—1.7, ch 6, 13.13(3,4)

BLIND, DEPARTMENT FOR THE (cont'd)

- Meetings **111**—1.5(1), 8.1(2)*d*, *see also Commission above; Vendors, Business Enterprises Program below*
- Motor vehicle assignments **11**—103.3(1)
- Organization/administration **111**—ch 1
- Procurements **111**—1.12; **261**—ch 54; **541**—10.3, *see also ADMINISTRATIVE SERVICES DEPARTMENT (DAS)*
- Records
- Generally*, public/fair information **111**—ch 13
 - Hearings **111**—8.1(4), 8.2(8,9,14), 11.9(2)*d*
- Rule making **111**—chs 3, 4, 12
- Security, buildings **111**—1.13
- Smoking **111**—1.13(4)
- Vendors, business enterprises program
- Agreements **111**—7.7, 7.12, 7.17(3), 7.18
 - Appeals **111**—7.10(13), 7.17(5), ch 8
 - Applicants, selection **111**—7.6
 - Benefits, health/retirement/leaves **111**—7.16(5)
 - Committee **111**—7.2, 7.3, 7.5, 7.6(3), 7.10(3)
 - Competence **111**—7.17(4)*d*
 - Complaints, filing **111**—8.1(4)
 - Confidentiality **111**—7.19
 - Definitions **111**—7.2
 - Discipline **111**—7.17
 - Equipment **111**—7.15
 - Evaluations **111**—7.11
 - Federal regulations **111**—5.13, 7.1, 7.2, 7.16, 7.19
 - Financial information **111**—7.18
 - Grievances **111**—7.3(1)*b*, 8.1
 - Hearings **111**—ch 8
 - Income **111**—7.10, 7.16
 - Inventory **111**—7.14
 - Licenses/permits **111**—7.2, 7.8, 7.9, 7.17(4)
 - Loans **111**—1.11(2)
 - Meetings **111**—7.3, 7.4
 - Prehearing conference **111**—8.2(7)
 - Randolph-Sheppard Act **111**—7.1, 7.2, 8.1(4), 8.2(2)*c*
 - Records/reports **111**—7.13, 8.1(4), 8.2(8,9,14), 13.13(3,4)
 - Taxation, sales **701**—12.8, 13.14, 20.5, 20.6
 - Training program **111**—7.3(1)*d*, 7.7, 7.8
 - Transfer/promotions **111**—7.10
- Vocational rehabilitation **111**—ch 2, 5.13, 7.1, chs 9, 10

BLOOD

Tests

- Laboratories, *see LABORATORIES*
- Lead, *see LEAD*
- Livestock, *see LIVESTOCK: Disease*
- Reports **641**—ch 1 Appendix B, 1.6

BOARDING HOUSES

See also CARE FACILITIES

- Complaints **481**—66.4, 66.5
- Definition **481**—30.2, 66.1
- Employees, unemployment compensation **871**—23.25(4)

Records **481**—66.7
Registration **481**—66.2, 66.3
Taxation **701**—18.15

BOATS AND BOATING

Accidents, reporting **571**—ch 42
Artificial lakes **571**—45.4
Avenue of the Saints Lake **571**—45.4(2)
Banner Lakes **571**—45.4(2)
Barges, *see* BARGES
Beaver Lake **571**—45.4(2)
Beeds Lake **571**—45.4(2)
Black Hawk Lake **571**—40.28
Black Hawk Pits **571**—45.4(2)
Brown's Lake **571**—40.29

Buoys

See also Flotation Devices below

Authorization **571**—41.3
Definition **571**—41.1
Display **571**—41.4(3), 41.7–41.9
Hunting boats **571**—51.6(2)*b*
Maintenance **571**—40.2, 41.4
Mooring **571**—41.9
Race course markers **571**—41.9(3–5)
Specifications, no-wake **571**—41.2
Zones, restricted speed **571**—ch 40

Canoes/kayaks **571**—37.13(2)

Carter Lake **571**—40.46

Catfish Creek **571**—40.57

Cedar River **571**—40.14, 40.15, 40.45

Clear Lake **571**—40.55

Commercial use

Docks **571**—16.2, 16.8, 16.9, 16.12, 16.13, *see also Docks below*
Fishing, *see* FISH AND FISHING: Commercial
Gasoline **565**—3.13(2)*c*; **701**—18.37(1), 68.8(7)
Identification numbers **571**—38.30
Tax exemptions **701**—18.37(1), 32.6

Coralville Lake **567**—71.10(2); **571**—40.7

Cornelia Lake **571**—40.58

Crawford Creek **571**—45.4(2)

Crystal Lake **571**—40.37

Dams, safety zone **571**—40.10

Dealers **571**—20.5, 38.20, 38.21

Deer Creek Lake **571**—45.4(2)

Des Moines River **571**—40.21

Divers **571**—41.10, 83.5

Docks

Generally **567**—71.10(2); **571**—ch 16

Approval **567**—71.10

Commercial, *see* Commercial Use above

Development grants **571**—ch 30

Fees **571**—16.13, 16.17(1), 16.19(3), 16.29

*BOATS AND BOATING (cont'd)**Docks*

- Flotation devices **571**—16.3(8)
- Liability **571**—16.28(6)
- Management areas **571**—16.25–16.30
- Permits **571**—ch 16
- Private **571**—16.2, 16.3(7), 16.4(2), 16.7, 16.13(2)
- Rafts/platforms **571**—16.10, 16.20, 16.27(4)
- Taxation, construction **701**—19.10(2)*d*, 219.11(2)*d*
- Emergency vessels **571**—40.1, 40.9, 40.14, 40.20, 40.21
- Fire extinguishers **571**—37.1
- Fishing, *see FISH AND FISHING*
- Flame arresters **571**—37.2
- Flotation devices **571**—37.13
- Fogle Lake **571**—45.4(2)
- Fuel tax fund, projects **571**—ch 30
- Gambling, excursion **491**—chs 5, 6, 11, 12; **571**—ch 48; **701**—17.25, 107.12, 214.5; **721**—21.820, *see also RACING AND GAMING*
- Gasoline, tax
 - Excise **571**—30.2
 - Exemptions **701**—18.37(1)
 - Refunds **701**—68.8(7,17), 68.13
 - Transporters, reports **701**—68.17
- George Wyth Lake **571**—45.4(2)
- Green Island, Jackson County **571**—40.49
- Green Valley Lake **571**—ch 36, 45.4(3)*a*
- Harpers Slough/Harpers Ferry **571**—40.27
- Horsepower **571**—36.15, 40.20, ch 45
- Hunting, *see HUNTING*
- Icaria Lake **571**—40.20, 45.4(3)*b*
- Ingham Lake **571**—40.40
- Inspections **571**—39.4, ch 48
- Instructors, certification **571**—15.43
- Iowa Lake **571**—45.4(2)
- Iowa River **571**—40.25, 40.36
- Life preservers **571**—36.12, 37.13, 42.3“19”
- Lights **571**—37.6–37.8
- Little River Lake **571**—40.51
- Little Wall Lake **571**—40.19
- Loch Ayr **571**—40.24, 45.4(2)
- Lost Island Lake **571**—40.39
- MacBride Lake **571**—45.4(3)*c*
- Manawa Lake **571**—40.18
- Manufacturers
 - Certificate of origin **571**—ch 20
 - Emissions **567**—23.1(4)*ai, cv*
 - Special certificates **571**—38.20
- Maquoketa River **571**—40.16
- Marshes, artificial **571**—45.5
- Meadow Lake **571**—45.4(2)
- Mississippi River
 - Bellevue **571**—40.43
 - Dubuque **571**—40.26

*BOATS AND BOATING (cont'd)**Mississippi River*

- Guttenberg **571**—40.23
- Jackson County **571**—40.33, 40.34
- Johnson Slough **571**—40.52
- Joyce Slough Area **571**—40.11
- Lock/dam safety zone **571**—40.10
- Marquette **571**—40.48
- Massey Slough **571**—40.13
- McGregor **571**—40.47
- Sabula **571**—40.34
- Spruce Creek **571**—40.33
- Swan Slough **571**—40.12

- Mitchell County waters **571**—40.15
- Motor regulations **571**—chs 43, 45
- Natural resources authority **561**—1.2(9), 1.3(2)*h*(1); **567**—71.10(2); **571**—40.1, 40.50, 41.3(3), 42.2, ch 47, 90.4
- Navigation aids **571**—ch 41
- Noise **571**—ch 43
- Numbers, placement **571**—38.1, 38.15, 38.19(1), 38.25, 38.30, 44.1(2)
- Odessa Lake **571**—40.9, 53.3
- Okoboji Lake **571**—40.31
- Otter Creek Lake **571**—45.4(2)
- Passenger limit **491**—5.6(1); **571**—20.3(12)*b*, 38.25, ch 39
- Raccoon River Regional Park Lake **571**—40.42
- Rathbun Lake **567**—71.10(2); **571**—40.5
- Red Rock Lake **567**—71.10(2); **571**—40.6
- Registration (license) **283**—37.1; **441**—ch 98 Div. VIII; **571**—ch 38, 39.4, chs 44, 47; **701**—ch 153
- Regulatory markers **571**—41.2(2)
- Rental vessels **571**—38.30
- Repairs **567**—23.1(4)*ai*; **701**—26.10
- Riverboat gaming, *see Gambling, Excursion above*
- Safety equipment **571**—36.12, ch 37
- Sailboats **571**—37.7, 37.8, 38.1, 38.19(1)*d*, 92.3(6)
- Saylorville Lake **567**—71.10(2); **571**—40.8
- Shell Rock River, Greene Impoundment **571**—40.35
- Silver Lake **571**—45.4(2)
- Snyder Bend Lake **571**—40.30
- Special events **571**—40.25, ch 44
- Speed/zoning restrictions **571**—chs 36, 40
- Spirit Lake **571**—40.32
- Storm Lake **571**—40.41
- Storage **571**—38.12, 61.6
- Taxation **701**—16.32, 16.46, 18.43, 26.10, 26.68, 32.6, 213.22, *see also Gasoline, Tax above; Gambling, Excursion above*
- Thayer Lake **571**—45.4(2)
- Three Fires Lake **571**—45.4(2)
- Three Mile Lake **571**—40.44, 45.4(3)*d*
- Titling **571**—20.8
- Upper Gar Lake **571**—40.22
- Wapsipinicon River **571**—40.17
- Waterfront, state lands **571**—ch 18
- Water recreation access cost-share program **571**—ch 30 Div. I, *see also NATURAL RESOURCES DEPARTMENT: Natural Resource Commission*

BOATS AND BOATING (cont'd)

Water skiing **571**—36.7–36.13, 37.13(9,10)
 Waterway markers **571**—chs 40, 41, *see also Buoy above*
 Williamson Pond **571**—45.4(2)
 Zones, *see Speed/Zoning Restrictions above*

BOILERS

Board, state **875**—chs 80–85
 Care facilities, *see HEALTH CARE FACILITIES: Design/Building Requirements: Service Areas*
 Definitions **567**—22.120; **875**—80.1, 90.2
 Emissions
 Emergencies, abatement strategies **567**—26.4
 Fossil fuel-fired **567**—22.9, 22.100 p.43
 Hazardous waste **567**—23.1(4)*be*
 Permit, acid rain compliance **567**—22.128(2)*i*
 Explosions **875**—90.11
 Fire safety **661**—201.2(1)
 Historic buildings **661**—350.1(3)
 Identification **875**—90.3
 Inspections **875**—84.1, 90.2, 90.5, 90.6, 90.7(3,4), 90.9(7)*a,e*, 90.9(8)*b*, 90.14, 91.1(4), 91.2, 91.16(4)*a*, 92.2, 93.2(1,2), 94.2(8), 96.1, 96.2(2)
 Inspectors, special
 Certification **701**—ch 153; **875**—90.2, 90.7, 90.9(7)*i*
 Commissions **875**—90.9
 Definition **875**—90.2
 Identification numbers **875**—90.3
 Records, division **875**—1.23(8)
 Report **875**—90.6(3)
 Installation, notice **875**—90.13
 Miniature **875**—chs 92, 93
 Operation, cessation **875**—90.6(7)
 Power **875**—90.2, ch 92
 Pressure vessels, unfired steam **875**—90.2, ch 96
 Registration **875**—90.4
 Repairs **875**—90.2, 90.6(7), 90.10, 91.2, 91.8
 Reviews/surveys/audits **875**—90.10
 Standards, equipment/facilities, *generally* **567**—23.1(4)*dd*; **661**—350.1; **875**—90.2, 90.5(2), 90.10, 90.12, 91.1, 91.7(3), 91.11, 91.15, 91.16(3,4), *see also specific type*
 Steam/hot water heating/supply **875**—90.2, ch 94
 Taxation **701**—19.10(2)*a*, 219.11(2)*a*
 Temporary **875**—90.14
 Waivers **875**—81.10
 Water heaters **875**—90.2, 90.7(3), ch 95

BONDS

Agricultural development program **25**—2.1, 2.3, 2.7–2.9, 2.11, 2.12, 2.14, 2.17, 2.19, 2.21; **701**—40.36
 Bail enforcement agencies **661**—121.4(3)*f*, 121.4(4)*c*
 Banks, negotiable instrument sales **187**—2.11
 Bidders
 Abandoned mined land (AML) construction **27**—50.190
 Printing **11**—4.14(6)*e*, 105.16(4)
 Regents **681**—8.6(2)
 Transportation department contractors **761**—20.4(7)

Carriers

- Excess loads **761**—511.6(2)
- Fuel tax, *see Fuel Tax Collection below*
- Motor, for-hire intrastate **761**—524.7

Cigarettes **701**—81.7, 82.3, 83.2

Clubs, physical exercise **61**—26.5

Coal mines **27**—40.51, 40.74(5), 50.40, 50.190

Contractors, out-of-state **701**—7.27; **875**—150.10(1)c, 150.13

Detectives, *see Private Investigation/Security Agents below*

Disasters, allocation **265**—ch 30

Elections, contests/recounts **721**—21.20, 21.21, 26.102

Employees

- Bargaining units **621**—8.3
- Coverage, workforce development services **877**—8.4(4)
- State officials/appointees **721**—1.9

Employers

- Contributions/charges **871**—23.17(9)
- Withholding tax **701**—38.9

Fidelity

- Athletic organizations, schools **281**—36.9
- Credit unions, foreign **189**—15.3(4)
- Funerals, preneed sellers **191**—105.5, 105.6(16)
- Health maintenance organizations (HMOs) **191**—40.13

Insurance

- Cooperatives, purchasing **191**—73.5
- Limited service organizations (LSO) **191**—41.12
- Self-funded **191**—35.20(3)e
- Viatical settlement providers **191**—48.7(2)c
- Job training fund depositors **877**—12.13(5)
- Substance abuse treatment programs **641**—155.5(1)j, 155.21(1)h
- Trail projects, sponsors **571**—28.12

Fireworks, displays **571**—65.2(2)

Flood plain/floodway construction **567**—72.30(6)

Forfeitures

- Coal mining, contested cases **27**—40.92(6), 40.93, 40.94
- Nonlocal business **701**—7.27

Fuel tax collection **761**—505.3(8)

Gas/oil wells, owners/operators **565**—51.2, 51.3(3), 51.5, 51.6(10,11), 51.15(3)

Geologist, state **565**—51.2

Grain dealers **21**—91.8(6,10), 91.9, 91.21, *see also Warehouses/Storage below*

Health clubs **61**—26.5

Hotel/motel tax collection **701**—103.10

Insurance

- Agents, managing general **191**—5.43
- Commissioner, approval, surety companies **661**—1.7; **701**—12.4
- Financial guaranty
 - Generally* **191**—ch 22
 - Industrial development **191**—22.1(3), 22.2(2)
 - Municipal obligation **191**—22.1(2)e, 22.1(5), 22.2(2)
 - Special revenue **191**—22.1(6), 22.2(2)

*BONDS (cont'd)**Insurance*

- Health maintenance organizations (HMOs) **191**—40.13
- Life, investments **191**—5.11
- Investment advisers **191**—50.41
- License depository, hunting **571**—15.6(3), 15.7
- Liquor
 - Certification, bond **185**—12.2(7)
 - Licensees/permittees **185**—4.13, 5.7(1), 5.9, 12.2(7-11)
- Livestock dealers **21**—66.1(6), 66.13
- Loans
 - Farmers, beginning **25**—ch 2; **701**—40.36
 - Finance authority **265**—2.9(4), ch 4, 5.1, 6.1
 - Industrial loan companies **187**—16.13
 - Regulated loan companies **187**—15.6
- Lottery, monitor vending machine licensees **531**—14.18(6,7)
- Motor vehicles, *see Carriers above; Surety below*
- Notaries public, forms **721**—4.1(2)
- Officials, public **721**—1.9
- Performance
 - Construction
 - Colleges/universities, state **681**—8.6(2)
 - Flood plains/floodways **567**—72.30(6)
 - Mine reclamation **27**—40.51, 50.190
 - Utilities, highway facilities **761**—115.4(4), 115.16(9)
 - Wells **567**—49.4
 - Contractors, transportation department **761**—20.4(7)
 - Printers, state contracts **11**—105.16(4)*d*
 - Small business waiver **481**—25.9
- Petroleum depositors, *see Surety: Underground Storage Tanks below*
- Private activity allocation **265**—ch 8
- Private investigation/security agents **661**—121.4(3)*f*, 121.4(4)*c*, 121.23(2)*d*
- Regents board **681**—8.6, 8.8; **701**—40.3
- Revenue **261**—70.2; **265**—ch 4, 5.1, 5.21, 6.21; **567**—136.13(2); **701**—40.3“4,5,15”
- Schools
 - Colleges/universities **681**—8.6; **701**—40.3“1”
 - Equipment purchasing/financing **281**—43.26(2)
 - Extracurricular activities **281**—36.9
 - Taxation, infrastructure activities **701**—108.2(3), 109.1(1)*a*, 109.2(8)*a*, 109.6(2)*a*, 109.7
- Special events, capitol complex **11**—100.4(6)*b*
- State obligations, coordination **781**—chs 6, 7
- Substance abuse treatment programs **641**—155.21(1)*h*
- Surety
 - Appliance demanufacturing **567**—118.16(6)*c*
 - Athletic agent **721**—4.6, 42.2
 - Banks **187**—2.11
 - Bargaining units **621**—8.3
 - Carriers **761**—524.7
 - Cigarette tax collectors **701**—81.7, 82.3, 83.2
 - College/university construction **681**—8.6(2)*c*
 - Companies, approval **661**—1.7
 - Contractors, construction **875**—150.13-150.16

- Credit unions, foreign **189**—15.3(4)
- Feeder pig dealers **21**—66.13
- Finance authority **265**—2.9(4), ch 4
- Financial guaranty insurance **191**—22.1(1)
- Home health agencies **441**—77.9
- Income tax, withholding **701**—38.9
- Insurance
 - Administrators, third-party **191**—58.5
 - Agents, managing general **191**—5.43(2)
- Landfills **567**—103.3(6)*b*, 112.31(6)*b*, 113.14(6)*b*, 114.31(6)*b*, 115.31(6)*b*
- License depositaries **571**—15.6(3,5,9), 15.7(1,3)
- Liquor **185**—5.9
- Lottery retailers **531**—12.16
- Manufactured/mobile home license **661**—372.2(5)
- Mining, minerals **27**—60.40, 60.41, 60.90
- Mobile home dealers **761**—421.2(2)
- Mortgage loan originators **187**—19.2(7)
- Negotiable instrument sales **187**—2.11
- Pipeline construction **199**—10.2(1)*d*
- Private investigators, *see Private Investigation/Security Agents above*
- Public safety department **661**—1.7, 13.8
- Radioactive material, decommissioning costs **641**—39.4(26)*f*(2), ch 39 Appendixes H,J
- Railway agents **661**—13.8
- Sand/gravel removal **571**—19.3(6)
- Sanitary disposal projects **567**—104.26(5)*c*, 105.14(5)*c*, 106.18(5)*c*, 120.13(4)*c*, 121.8(4)*c*, 122.28(5)*c*, 123.12(6)*c*
- Small business waiver **481**—25.9
- Tax collection **701**—10.117–10.120, 10.123–10.126, 11.10, 12.3(2)*d*, 12.4, 13.7, 38.9, 67.21, 67.24, 69.4, 81.7, 82.3, 83.2, 103.10; **761**—505.3(8)
- Timber buyers **571**—ch 72
- Trail projects, sponsors **571**—28.12
- Travel trailer dealers **761**—425.10(2)
- Truck operators, *see Carriers this subheading above*
- Underground storage tanks **567**—136.9, 136.18(1)*a*, 136.21(1), 136.24; **591**—6.13; **701**—40.37
- Vehicles
 - Dealers **761**—425.10(2)
 - Registration, title issuance **571**—46.1(5)*e*, 47.1(5)*e*; **761**—400.4(3)*g*, 400.13
- Taxation
 - Collection, *generally* **701**—7.27, 13.7, 16.25, 86.14(9), *see also Surety above*
 - Investments **701**—40.2, 40.3, 40.36, 40.37, 40.39, 40.56, 53.2(2)*c*, 53.6, 54.6(3)*b*(2), 59.5, 59.6
 - Local option revenue, bond obligations **701**—107.17, 109.7
- Timber buyers **571**—ch 72
- Tire haulers, waste **567**—116.4
- Trail projects, sponsors **571**—28.12
- Treasurer of state, duties **781**—chs 6, 7
- Underground storage tanks **567**—136.13, *see also Surety above*
- Union, state employees **621**—8.3
- Utilities, highway facilities **761**—115.4(4), 115.12(2)*l*, 115.16(9)
- Warehouses/storage **21**—90.9, 90.14(2), 90.21(2), 90.22, 90.26(2)*d*, 90.27(3), *see also Grain Dealers above*
- Wells **565**—51.2, 51.3(3), 51.5, 51.6(10,11), 51.15(3); **567**—49.4

BOOKS

See PUBLICATIONS

BOTTLERS

Beer/wine

Generally, see BEER AND LIQUOR

Liquor sales **185**—5.3

Deposits, containers

Label notation **567**—ch 107

Sales tax **701**—17.17

Water, standards **481**—31.2“5”; **567**—43.1(3)

BOTTLES

See BEVERAGES

BOUNDARIES

Cities

Adjustments, *generally* **263**—chs 7–10, *see also ANNEXATION*

Definitions **263**—10.5

Elections, wards **721**—21.400

Legal descriptions **193C**—11.3, 11.4; **263**—7.2(2)*c*

Planning/service areas, elder affairs **321**—4.3(2)

Surveys, property, *see SURVEYS*

BOVINE

See LIVESTOCK

BOWLING

Taxation **701**—16.49

BOWS AND ARROWS

See FISH AND FISHING; HUNTING

BOXING

Amateur

Generally **875**—ch 170, 173.21, ch 175

Advisory board **875**—ch 170

Professional

Commissioner

Attendance, bouts **875**—173.18

Participant approval **875**—173.20

Referee approval **875**—173.20, 173.35

Conduct **875**—173.8, 173.23, 173.24

Contestants

Age restriction **875**—173.3

Arrival time **875**—173.7

Attire **875**—173.12

Bouts, frequency **875**—173.6

Contracts **875**—173.26

Foreign substances **875**—173.13, 173.38

Hands, protection **875**—173.9

Number **875**—173.21

Weigh-in **875**—173.19

Weight limitations **875**—173.2, 173.17

- Contracts **875**—173.26
- Definitions **875**—173.14, 173.15
- Disease testing **875**—173.54, 177.5(11)
- Elimination tournaments **875**—ch 174
- Fouls **875**—173.15, 173.16, 173.23, 173.43
- Gloves **875**—173.11, 173.32, 173.38
- Grants **875**—chs 170, 171
- Injuries **875**—173.4, 173.36
- Intermissions **875**—173.4, 173.21
- Kickboxing **875**—ch 176
- Law enforcement officers **875**—173.22
- Locker rooms **875**—173.25
- Officials **875**—173.20, *see also subheadings Physicians, Duties below; Referees below*
- Penalties
 - Delaying tactics **875**—173.41
 - Forfeiture, purse **875**—173.37
 - Ropes **875**—173.44
- Physicians, duties **875**—173.4, 173.8, 173.19, 173.45
- Promoters
 - Duties **875**—173.4, 173.22, 173.35
 - License revocation **875**—173.22
- Purse, forfeiture **875**—173.37
- Records **875**—1.23(12)
- Referees
 - Authority **875**—173.33
 - Bouts, discontinuance **875**—173.4, 173.36, 173.46
 - Fouls, penalties **875**—173.16, 173.40, 173.41, 173.43, 173.44
 - Inspection, boxers/gloves **875**—173.38
 - Physician, summons **875**—173.8, 173.45
 - Purse, forfeiture **875**—173.37
 - Selection **875**—173.35
- Ring specifications **875**—173.27–173.31
- Scoring
 - Count interruption **875**—173.42
 - False entry **875**—173.49
 - Fouls, *see Referees above*
 - Judges **875**—173.53
 - Knockdown **875**—173.5
 - Maximum point awarded **875**—173.10
 - Penalty, delay **875**—173.41
 - TKO (technical knockout) **875**—173.46
- Seconds
 - Chief second, responsibility **875**—173.34
 - Coaching prohibition **875**—173.23
 - Fights **875**—173.51
 - Injuries, assistance prohibition **875**—173.45
 - Limitation **875**—173.48
- Ring
 - Clearing **875**—173.52
 - Entry/departure **875**—173.49

BOXI**BOXING** (*cont'd*)*Professional**Seconds*

Smoking/hats prohibition **875**—173.49

Water **875**—173.50

Shoot fighting **875**—ch 177

Specifications, bout

Amateur contestants **875**—173.21

“Battles royal” **875**—173.21

Christmas Day **875**—173.21

Knockdown **875**—173.5

Rounds **875**—173.1

Weight classes **875**—173.2, 173.17

Taxation, income **701**—40.16(2)

BOYS TRAINING SCHOOL

See *TRAINING SCHOOL, ELDORA*

BRaille AND SIGHT-SAVING SCHOOL

Generally **681**—ch 15

Address **681**—15.1(4)

Admissions **681**—15.10

Forms **681**—8.7(4), 15.6

Organization **681**—15.1

Postsecondary education **281**—ch 22

Procurements **681**—15.7

Prohibitions **681**—15.8

Solicitation **681**—15.8(1)

Speed limit **681**—15.8(3)

Transportation **681**—15.9

BRAIN INJURY

See *MENTAL HEALTH; MENTALLY RETARDED*

BREWERIES

See *BEER AND LIQUOR: Manufacturers/Wholesalers*

BRIBES

See also *CONFLICTS OF INTEREST*

Beer/liquor, sales **185**—16.17, 16.18

Bidders, state agency procurements **11**—105.18(2)c

Employees, merit **11**—ch 65

Engineers/land surveyors **193C**—8.2(6)

Gaming, boats/racetracks **491**—6.5(3)

Lottery, vendors **705**—4.7

Racing, horse/dog **491**—6.5(3), 9.4(2)e

BRIDGES

Construction

Flood plain/floodway **567**—71.1, 72.1

Funding **761**—chs 160, 161, 163.7(1)b, ch 164

Standards **761**—ch 125

Taxation **701**—19.10(2)e

Trails, snowmobile/all-terrain **571**—28.13(4)

Interstate, value assessment, railroads **701**—76.9(2)

Machinery movement, permits **761**—ch 181

Road projects, definition 567—70.2
Utility facilities 761—115.11, 115.12, 115.16(2)d

BROADCASTING

See *PUBLIC BROADCASTING DIVISION*

BROKERS

Banks 187—2.15; 191—50.19–50.22
Credit unions 191—50.21, 50.22
Insurance 191—chs 16, 48, 90.16(2)
Real estate 193E—chs 1–5, see also *REAL ESTATE*
Savings and loan associations 191—50.21, 50.22
Securities 187—2.15; 191—ch 50, see also *SECURITIES*
Taxation 701—30.1(1), 52.1(3)w

BROWNFIELD REDEVELOPMENT

Funds 261—ch 65; 567—93.7(1)d; 701—42.13(2), 52.15(2), 58.8(2); 761—163.1, 163.9(6)c

BRUCELLOSIS

Branding 21—64.52(2,3), 64.54, 66.4(9)
Cattle 21—64.1, 64.34(2)b, 64.47, 64.49–64.58, 64.63–64.65, 65.4(2)c, 65.4(3)b, 65.4(4), 66.4(6,9), 66.5–66.7,
see also *Tests below*
Cervidae 571—104.20(2), see also *Tests below*
Definitions 21—64.47, 64.65
Disinfection 21—64.53
Eradication 21—1.5(1)a, 64.68
Goats 21—64.1, 64.34(5)b, 65.6(2)a
Indemnity 21—64.56(2), 64.57(9)
Markets
 Classification 21—66.5, 66.6
 Fees 21—66.4(9)
 Release 21—66.10
 Sale sequence 21—66.9
Movement, livestock 21—65.4(3)b, 65.4(4)b, 65.5(2–4), 66.11
Quarantine 21—1.5(1)a, 64.34(2)b, 64.43(1), 64.51, 64.67, 65.4(2)a,c
Reactors 21—64.43, 64.51(2), 64.52(3), 64.53, 64.54, 64.56, 64.57, 64.67, 66.6(4), 66.9(5)
Report 641—1.3(1)a(2)
Sheep 21—64.1
Standards 21—66.5, 66.6, 66.10, 68.27
Swine 21—64.1, 64.34(4)a, 64.43, 64.67, 64.68, 64.71(2), 65.5(2–4)
Tags/identification 21—64.52, 64.54, 64.63, 64.64(2), 64.65(4), 64.71(2), 65.5(1)b
Tests
 Bison 21—64.34(10), 64.47, 65.4(3)b
 Cattle 21—64.34(2)b, 64.34(10), 64.47, 64.49–64.53, 64.54(1), 64.55–64.58, 64.65(4), 65.4(3)b, 65.4(4),
 66.4(6,9), 66.7–66.9
 Certification 21—64.49
 Cervidae 21—64.34(10), 64.35(6), 65.9(3)b
 Equine 21—65.8(1)b
 Exemptions 21—65.4(3)b, 66.7
 Fairs/shows, state/district 21—64.34
 Goats 21—64.34(5)b, 65.6(2)a
 Laboratory 21—64.34(2)b(3), 64.34(4)a(3), 64.34(10)b, 64.57(13), 65.4(3)b, 66.8
 Swine 21—64.34(4)a, 64.43, 64.67, 64.68, 65.5(2–4)

BRUCellosis (cont'd)

Vaccination **21**—64.34(2)*b*(2), 64.49(2), 64.50, 64.52, 64.55(4), 64.57(2,4), 66.4(6), 66.7(5)
 Veterinary inspection certificates **21**—64.34, 64.49, 64.68, 65.4(2)*c*, 65.5(1), 66.11

BUILDINGS

See also FIRE AND FIRE PROTECTION; HEALTH CARE FACILITIES; HOMES, HOUSING; HOSPITALS

Access

Capitol complex **11**—100.2(2)
 Handicapped **721**—21.50, *see also Building Code below; HEALTH CARE FACILITIES: Disabilities*
 Highway **761**—112.5

Apartments

Access, handicapped **661**—302.20
 Taxation, commercial/residential use **701**—71.1(4,5)
 Utility service, *see Utility Service, Multioccupancies below*

Asbestos, *see ASBESTOS*

Building code

Access, handicapped **321**—24.41(10); **661**—301.3, ch 302
 Adoption **661**—300.1, 350.1(3)
 Advisory council **661**—300.1, 300.3, 301.2
 Alternate materials/methods **661**—300.2, 300.3
 Apartments **661**—302.20
 Assemblies, public **661**—301.6(1), 302.2
 Authority, enforcement/administrative **661**—300.6, 301.2, 302.2
 Basements **661**—301.5, 301.8
 Bathrooms, accessibility **661**—301.5, 302.20(1)*c,d*
 Board of review **661**—301.2
 Boilers/pressure vessels **661**—350.1(3)
 Bureau **661**—200.1(2)*d*
 Business/mercantile facilities **661**—302.8
 Commissioner **661**—300.2, 300.4, 300.5, 301.2, ch 372
 Construction standards **661**—ch 300, 301.3, 301.8, ch 302, 303.1–303.4, ch 310, *see also specific type*
 Copies **661**—300.4(2)
 Cost analysis, life cycle **661**—300.4(1)*l*, 303.4
 Definitions **661**—16.610(3), 16.620(4), 301.2, 301.7, 302.2, 302.20, 322.2, 350.1(1), 372.1
 Electrical **661**—201.2(1)*t*, 201.3, 210.2(2), 301.3, 301.5, 301.8, 302.20(1)*f*, 302.20(2)
 Elevators **661**—302.20(2), 350.1(3)
 Energy conservation **199**—36.7; **661**—300.4(1)*m*, ch 303, *see also Energy Use below*
 Existing buildings **661**—301.7
 Factory-built structures **661**—16.610, 301.6, ch 323, *see also Manufactured Housing (Mobile Homes) this subheading below*
 Fire safety **661**—16.610(16)*d*, chs 201, 202, 210, 300.4(2), 301.3, *see also FIRE AND FIRE PROTECTION*
 Foundations **661**—300.4(4)
 Handicapped, *see Access, Handicapped this subheading above*
 Health care facilities **661**—301.3(1)
 Historical buildings **661**—300.1, ch 350
 Hospices **661**—205.1, 205.10, 301.3(1)*b*
 Hospitals, *see HOSPITALS*
 Inspections **661**—300.5, 301.1, 302.1, 372.7
 Libraries **661**—302.9
 Lodging, transient **661**—302.2, 302.10
 Manufactured housing (mobile homes) **661**—16.620, 16.621, 16.623, 16.627–16.629, 322.12, chs 372, 374
 Mechanical **661**—301.4
 Medical care facilities **661**—302.7

*BUILDINGS (cont'd)**Building code*

- Mobile homes, *see Manufactured Housing (Mobile Homes) this subheading above*
- Occupancy requirements **661**—301.3, 301.6(1), 301.7(2), 303.1
- One- and two-family dwellings **661**—301.8, *see also Apartments above*
- Parking/loading zones, disabled **661**—302.4(4), ch 18
- Permits **661**—16.610(20,30), 300.6(3)
- Plans/specifications **661**—200.3, 300.4, 303.1(3), 303.2(6)
- Plumbing, Uniform Code **481**—61.11(4); **641**—ch 25; **661**—301.2–301.4, 301.6–301.8, 350.1(3), *see also Bathrooms, Accessibility this subheading above*
- Renovations/remodeling **661**—300.4(1), 300.5(2), ch 302, 303.1(1,2), 303.4
- Restaurants **661**—301.6(1), 302.6
- Restrooms, *see Plumbing, Uniform Code this subheading above*
- State buildings **661**—300.4(1)h, 301.1
- Thermal energy efficiency standards **661**—303.1–303.3
- Transportation facilities **661**—302.11
- Ventilation **661**—301.4
- Violations **661**—300.5(3)
- Burning
 - Agricultural **567**—23.2(3)i, 23.2(4)
 - Demolition, *see Demolition below*
 - Training fires **567**—23.2(3)g; **661**—200.8(11)a
- Capitol complex, *see State/Government below*
- Carpenters **701**—26.12
- Colleges, state, construction **681**—7.6(3), 7.7(3), 8.6
- Construction
 - See also Building Code above; Loans below; Taxation below*
 - Contractors **871**—23.82(2)
 - Disasters, jobs program grant **265**—ch 32
 - Elevator use **875**—72.23
 - Guidelines, engineers **193C**—1.5
 - Permits **571**—ch 13
- Demolition
 - Burning, controlled **567**—23.2(3)j
 - Inspections, fire safety **661**—200.8(4)c
 - Taxation **701**—18.6(4)
- Energy use
 - See also Building Code above*
 - Conservation
 - Compliance, utility service prerequisites **199**—35.14, 36.7
 - Grants/loans **565**—ch 6
- Fire safety standards, *see Building Code above; FIRE AND FIRE PROTECTION; HOSPITALS*
- Flood protection **567**—71.7, 72.5
- Grants **261**—ch 39; **281**—ch 100, *see also Energy Use above; Loans below; ECONOMIC DEVELOPMENT DEPARTMENT: Brownfield Redevelopment Program; HISTORICAL DIVISION: Historical Preservation*
- Historical **11**—100.4(3), ch 114; **223**—1.5, chs 35, 37, 41, 44, 46–48; **261**—39.7(2); **265**—ch 11; **286**—1.5; **661**—300.1, ch 350; **701**—42.15, 52.18, 58.10, 80.15, *see also HISTORICAL DIVISION*
- Lead, *see LEAD*
- Loans
 - See also Energy Use above*
 - Agricultural **25**—4.4(2)
 - Community construction **223**—ch 46; **265**—ch 11

BUILDINGS (cont'd)

- Moving, *see Taxation below*
- Parking, *see PARKING*
- Permits, *see Building Code above; Construction above*
- Plans/specifications
 - Dead animal disposal plants **21**—61.11, 61.12
 - Health care facilities, *see HEALTH CARE FACILITIES: Design/Building Requirements*
 - Reviews **661**—300.4(3)b, 303.1(3)
 - X-ray machine installation **641**—41.1(3)d, ch 41 Appendix A
- Railroad facilities **661**—302.11; **761**—ch 201; **875**—29.4, 29.5
- Regents institutions **661**—300.5(3)d; **681**—8.6
- Renovations/remodeling
 - See also Taxation below*
 - Health care facilities **481**—60.3(2,3,5), 61.3(2), *see also PUBLIC HEALTH DEPARTMENT: Certificate of Need*
 - Historical **223**—21.3(1), 21.3(4)g, chs 37, 47, 48; **261**—39.7(2), *see also Taxation: Rehabilitation, Credit/Exemption below*
- Schools, *see SCHOOLS*
- Shelters, *see SHELTERS*
- Smoking restrictions **641**—ch 153
- Speculative shell **701**—40.42, 53.17, 59.18, 80.5
- State/government **11**—1.4(1)a,b, ch 100; **223**—1.5; **661**—302.2
- Taxation
 - See also TAXATION: Property*
 - Construction/maintenance **701**—15.14, 16.3, 16.15, 16.48, 17.19(3), 18.5(3)c, 18.6(4), 18.59, chs 19, 219, 26.2(1), 26.12, 26.19, 26.46, *see also Rehabilitation, Credit/Exemption this subheading below; Speculative Shell above; TAXATION: Sales and Use*
 - Moving **701**—19.1, 26.25, 219.1
 - Rehabilitation, credit/exemption **221**—9.7; **223**—21.3(2)g, 21.3(3)c(7), chs 37, 47, 48; **261**—59.2, 59.8; **701**—42.15, 42.17, 52.18, 52.20, 58.9
- Temporary **661**—ch 323
- Tinwork **701**—26.46
- Transportation facilities
 - Access, *see Building Code above*
 - Intermodal **761**—ch 201
- Utility service, multioccupancies **199**—19.3(1)b-d, 20.3(1)b-d, 21.3(7)b

BUNGEE JUMPING

See RECREATION

BURIAL

See also CEMETERIES; DEATH; FUNERALS

- Ancient remains, reburial **685**—6.2(2), ch 11
- Disinterment **641**—101.7; **645**—100.1, 100.9
- Foster children **441**—156.8(5)
- Graves **645**—100.10(6)a; **801**—1.7, 6.12(2)
- Merchandise/services, *see FUNERALS: Prearrangement/Preneed Contracts*
- Permits
 - Burial transit **641**—101.4–101.6, 101.8, 127.5(2); **645**—100.4(2), 100.5, 100.10(6)a
 - Disinterment, *see Disinterment above*
- Plots, FIP (family investment program) resource exemption **441**—41.26(1)i
- Sites, real estate transactions **561**—9.2(3)
- Veterans **801**—1.7, 6.12(2)

BUSES

- Baggage, X-ray inspection **641**—45.1(2)
- Beverage sales, deposits **567**—107.8(1)
- Churches **761**—400.42

- Emissions, reduction assistance program **567**—ch 35
 - Fuel **701**—18.38, 68.8(4), 69.13
 - Insurance **281**—43.33; **761**—524.7, 524.8
 - Leasing **761**—ch 430
 - Marking **761**—524.12
 - Motor carriers, *generally* **701**—40.16(2); **761**—1.8(5)g, chs 520, 524, 529, *see also* CARRIERS
 - Records/reports **281**—5.14(3,4), 5.15(13); **761**—921.7, 921.9
 - Registration **283**—37.1; **441**—ch 98 Div. VIII; **701**—ch 153; **761**—400.2(8), 400.5(2)f, 400.42, 529.2
 - School
 - Accidents **281**—5.14(4), 43.36, 43.44(6), 44.7; **761**—911.10(5)
 - Certificate of title **761**—400.2(8), 400.5(3)
 - Common carriers **281**—43.44
 - Costs **281**—43.8, 43.9, 43.11, 43.26
 - Definition **761**—607.3
 - Drivers
 - Abuse, child **281**—102.11; **761**—911.6(4)
 - Contracts **281**—43.3—43.6, 43.34, 43.35; **761**—911.4
 - Inspections, pretrip/posttrip **761**—911.8(2), 911.10(8)
 - Instruction **281**—43.32, 43.44(2); **761**—911.10(2,7)
 - License/authorization **281**—5.14(3), 43.14, 43.15, 43.18, 43.23, 43.24, 43.32, 43.39(4), 43.44(2); **283**—37.1; **441**—ch 98 Div. VIII; **701**—ch 153; **761**—605.4(1), 607.17(6), 607.27(2)f, 607.28(2)b, 911.6(5,6)
 - Qualifications **281**—43.12—43.15, 43.17, 43.21, 43.39(4)
 - Railroad crossings **281**—43.37
 - Restrictions **281**—43.38
 - Retirement, IPERS (Iowa public employees' retirement system) **495**—5.2(17), 7.2(6)
 - Violations **281**—43.24
 - Equipment, communications **281**—43.43
 - Extracurricular activities **281**—43.9, 43.10, 43.39
 - Fuel, taxation **701**—68.8(4), 69.13
 - Inspections **281**—43.22, 43.25(8), 43.30, 43.31, 43.41, 43.44(5); **761**—911.7(5), 911.8(3), *see also* Drivers *this subheading above*
 - Insurance **281**—43.33
 - Loading procedure **281**—43.42, 43.44(4); **761**—911.10(1)
 - Manufacturers, construction
 - Generally* **281**—44.1—44.4
 - Disabled, equipment requirements **281**—44.5
 - Multipurpose **281**—44.6
 - Standards **281**—ch 44 Appendix; **761**—911.7
 - Operation, records **281**—5.15(13)
 - Private ownership **281**—43.3—43.7, 43.34; **761**—400.2(8), 400.5(2)f
 - Purchase **281**—43.25, 43.26, 98.61(2)b
 - Repair **281**—43.31, 44.7
 - Routes **281**—17.9(1), 43.1, 43.2
 - Safety education **281**—43.22
- Stations, building code requirements **661**—302.11

BUSES (cont'd)

Taxation

Fuel **701**—18.38, 68.8(2), *see also School above*

Transportation corporations **701**—54.7(2)

Transit systems **701**—18.38, 68.8(2); **761**—1.8(2)*b*, 400.2(8), 400.5(2)*c*, chs 910, 911, 920–923, *see also TRANSPORTATION DEPARTMENT*

BUSINESS

See BANKS AND BANKING; BUILDINGS: Building Code; COMMERCE DEPARTMENT; CORPORATIONS; ECONOMIC DEVELOPMENT DEPARTMENT; INDUSTRY; INSURANCE; LABOR SERVICES DIVISION; SAVINGS AND LOAN ASSOCIATIONS; SMALL BUSINESS; TAXATION; TRADE

BUTANE

See GAS

BUTTER

See DAIRIES: Milk/Dairy Products