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USURY

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

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Dec. 17 '14	Jan. 7 '15	Jan. 27 '15	Feb. 11 '15	Feb. 13 '15	Mar. 4 '15	Apr. 8 '15	July 6 '15
Jan. 2	Jan. 21	Feb. 10	Feb. 25	Feb. 27	Mar. 18	Apr. 22	July 20
Jan. 16	Feb. 4	Feb. 24	Mar. 11	Mar. 13	Apr. 1	May 6	Aug. 3
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Feb. 13	Mar. 4	Mar. 24	Apr. 8	Apr. 10	Apr. 29	June 3	Aug. 31
Feb. 27	Mar. 18	Apr. 7	Apr. 22	Apr. 24	May 13	June 17	Sep. 14
Mar. 13	Apr. 1	Apr. 21	May 6	May 8	May 27	July 1	Sep. 28
Mar. 27	Apr. 15	May 5	May 20	***May 20***	June 10	July 15	Oct. 12
Apr. 10	Apr. 29	May 19	June 3	June 5	June 24	July 29	Oct. 26
Apr. 24	May 13	June 2	June 17	June 19	July 8	Aug. 12	Nov. 9
May 8	May 27	June 16	July 1	***July 1***	July 22	Aug. 26	Nov. 23
May 20	June 10	June 30	July 15	July 17	Aug. 5	Sep. 9	Dec. 7
June 5	June 24	July 14	July 29	July 31	Aug. 19	Sep. 23	Dec. 21
June 19	July 8	July 28	Aug. 12	Aug. 14	Sep. 2	Oct. 7	Jan. 4 '16
July 1	July 22	Aug. 11	Aug. 26	***Aug. 26***	Sep. 16	Oct. 21	Jan. 18 '16
July 17	Aug. 5	Aug. 25	Sep. 9	Sep. 11	Sep. 30	Nov. 4	Feb. 1 '16
July 31	Aug. 19	Sep. 8	Sep. 23	Sep. 25	Oct. 14	Nov. 18	Feb. 15 '16
Aug. 14	Sep. 2	Sep. 22	Oct. 7	Oct. 9	Oct. 28	Dec. 2	Feb. 29 '16
Aug. 26	Sep. 16	Oct. 6	Oct. 21	***Oct. 21***	Nov. 11	Dec. 16	Mar. 14 '16
Sep. 11	Sep. 30	Oct. 20	Nov. 4	***Nov. 4***	Nov. 25	Dec. 30	Mar. 28 '16
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
25	Wednesday, May 20, 2015	June 10, 2015
26	Friday, June 5, 2015	June 24, 2015
1	Friday, June 19, 2015	July 8, 2015

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

CORRECTIONS DEPARTMENT[201]

Iowa state industries, 37.2(5), 37.3, 37.4, 37.7, 37.8(1), 37.9, 37.10 IAB 5/13/15 ARC 1990C	Corrections Dept. Conference Room 510 E. 12th St. Des Moines, Iowa	June 2, 2015 11 a.m. to 1 p.m.
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LABOR SERVICES DIVISION[875]

Standards for amusement rides and devices, concession booths, and bungee jump operations, rescind chs 61, 62; adopt chs 61 to 63 IAB 5/13/15 ARC 1987C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	June 3, 2015 1:30 p.m. (If requested)
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State lands volunteer program, ch 13 IAB 5/13/15 ARC 1989C	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	June 2, 2015 10 a.m.
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Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 1990C

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 904.804, the Department of Corrections gives Notice of Intended Action to amend Chapter 37, “Iowa State Industries,” Iowa Administrative Code.

With these amendments, Iowa State Industries proposes to update rules on routine matters such as addresses, hours of operation, and location of product catalogs. The proposed amendments also clarify that products may be sold to contractors when the products will be sold to a public entity, adopt by reference the provisions of Department of Administrative Services rules dealing with procurement of goods and services, replace a defined term governing private sector employment of offenders, and replace a defined term governing utilization of offender labor in construction and maintenance projects. Revisions of cross references in Item 3 are based on proposed amendments in the Department of Administrative Services’ Notice of Intended Action published as **ARC 1969C**, IAB 4/15/15.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 2, 2015. Such written materials should be sent to the Director of Prison Industries, 510 East 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on June 2, 2015, from 11 a.m. to 1 p.m. in the Department of Corrections Conference Room, 510 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who intends to attend the public hearing and has special requirements should contact the Department of Corrections and advise of specific needs.

These rules do not provide for waivers in specified situations. An agencywide waiver provision is provided in 201—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 904.804.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 37.2(5):

37.2(5) Iowa state industries may sell products to private contractors when the products purchased will be used by a public entity as provided in subrules 37.2(1) to 37.2(3).

ITEM 2. Rescind rules 201—37.3(904) and 201—37.4(904) and adopt the following **new** rules in lieu thereof:

201—37.3(904) Catalogs. Catalogs are available online at the Iowa state industries Internet home page <http://www.iaprisonind.com>, or at the Iowa state industries showroom located at 1445 East Grand Avenue, Des Moines, Iowa 50316. Requests for mailed copies may be sent to the Iowa state industries showroom address.

201—37.4(904) Offices. The showroom and main office for Iowa state industries are located at 1445 East Grand Avenue, Des Moines, Iowa 50316; telephone (515)242-5778. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 3. Amend rule 201—37.7(904) as follows:

201—37.7(904) Procurement of goods and services. The provisions of 11—Chapter ~~405~~ 117 are hereby adopted by reference with the following amendments.

1. Strike “Department of Administrative Services” and insert in lieu thereof “Iowa State Industries” in all rules except rule ~~11—105.10(8A)~~ 11—117.11(8A), which pertains to procurement of information technology devices and services.

2. In lieu of the definitions of “Department” and “Director,” insert the following:

“Department” means the division of Iowa state industries.

“Director” means the director of the division of Iowa state industries or the director’s designee.

3. ~~Rules 11—105.6(8A), 11—105.13(8A), and 11—105.15(8A) are not adopted.~~ Rules 11—117.7(8A) and 11—117.15(8A) and subrule 117.4(3) are not adopted.

4. In lieu of the text of ~~11—subrule 105.14(1)~~ 117.14(1), insert the following: “Purchase of goods. An agency may acquire goods not otherwise available through a master agreement in accordance with the procurement threshold guidelines in ~~11—105.3(8A)~~ subrule 117.5(3).”

5. In lieu of the text of rule ~~11—105.20(8A)~~ 117.20(8A), insert the following: “Appeal process. Vendors may appeal actions by Iowa state industries under these rules as follows:

“Step 1. Appeals shall be filed in writing to the Business Manager, Iowa State Industries, 406 North High Street, Anamosa, Iowa 52205, within ~~five~~ 5 working days of notification of the action being appealed. The appeal shall state the specific grounds upon which the vendor is challenging the action. The business manager, Iowa state industries, shall notify the vendor in writing of the decision within 10 working days.

“Step 2. If the appeal is not resolved, it may be further appealed by the vendor to the Director of Iowa State Industries, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 1 appeal response. The director of Iowa state industries shall notify the vendor in writing of the decision within 15 working days.

“Step 3. An unresolved appeal to the Director of Iowa State Industries shall be referred to the Director of the Department of Corrections, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 2 appeal response. The director of the department of corrections shall notify the vendor in writing of the decision within 15 working days.”

This rule is intended to implement Iowa Code section 904.813.

ITEM 4. Amend subrule 37.8(1) as follows:

37.8(1) Rules of procedure. The seven-member prison industries advisory board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, department of corrections. The principal duties of the advisory board are to promulgate and adopt rules and to advise the director, Iowa state industries, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. When a quorum is present, a position is carried by a majority of the members of the board.

c. The board shall meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

~~(1) The communications media shall be notified at least two weeks in advance of board meetings.~~

(1) Notice of the meetings shall be given pursuant to Iowa Code chapter 21.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

d. Copies of the minutes are kept on file in the office of the director, Iowa state industries. Minutes are available from the director’s office to interested persons upon request. Organizations may request to be placed on a mailing list. Copies of administrative rules and other materials considered are made a part of the minutes by reference.

e. In cases not covered by these rules, Robert’s Rules of Order shall govern.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 5. Amend rule 201—37.9(904) as follows:

201—37.9(904) Private sector employment projects.

37.9(1) Definitions.

“Advisory board” means the prison industries advisory board.

“Deputy director of prison industries” means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

“Director” means the chief executive officer of the department of corrections.

“Wage range” means the 10th percentile and 90th percentile wages.

“Workforce development board” means the state workforce development board.

“Workforce development director” means the chief executive officer of the department of workforce development.

~~37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.~~

37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet site.

37.9(3) Employer application.

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

- (1) Work program, including job description;
- (2) Proposed wage rate;
- (3) Description of job site;
- (4) Duration of the work; and
- (5) A copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer’s 30-day job listing, the ~~average wage rate~~ wage range for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

~~37.9(4) Verification. The workforce development director shall verify the employment levels and prevailing wages paid~~ wage range for similar jobs in the area and provide to the deputy director of prison industries, in writing:

- a. Verification of the employer’s 30-day job listing;
- b. The number of qualified applicant referrals and hires made as a result of the job order;
- ~~c. The average wage rate for the proposed job(s);~~
- ~~d. c.~~ The wage range for the proposed job(s);
- ~~e. d.~~ The current unemployment rate for the county where the employer is located; and
- ~~f. e.~~ The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

37.9(5) Prevailing wages Wage range. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the ~~prevailing wages~~ wage range for the job(s) in question from the department of workforce development prior to authorizing any private sector

CORRECTIONS DEPARTMENT[201](cont'd)

work program. The deputy director of prison industries will consider the ~~average wage rate and~~ wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide. To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

- a. Offenders shall not be eligible for unemployment compensation while incarcerated.
- b. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.
- c. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

37.9(6) to 37.9(9) No change.

ITEM 6. Amend rule 201—37.10(904) as follows:

201—37.10(904) Utilization of offender labor in construction and maintenance projects.

37.10(1) Definitions.

“*Director*” means the chief executive officer of the department of corrections.

“*Employer*” means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of administrative services.

“*Wage range*” means the 10th percentile and 90th percentile wages.

“*Workforce development director*” means the chief executive officer of the department of workforce development.

37.10(2) Scope. Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of administrative services.

37.10(3) Employer application. Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

~~a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall contain the prevailing wage determined by the department of workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.~~

a. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide via the department of workforce development’s jobs Internet site.

b. The employer’s application shall include:

- (1) Scope of work, including type of work and required number of workers;
- (2) Proposed wage rate;
- (3) Location;
- (4) Duration; and
- (5) Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development the employer’s 30-day job listing, the ~~average wage rate~~ wage range for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the employer that will employ the offenders.

37.10(4) Verification. The director of workforce development shall verify the employment levels and ~~prevailing wages paid~~ wage range for similar jobs in the area and provide to the director, in writing:

- a. Verification of the employer’s 30-day job listing;

CORRECTIONS DEPARTMENT[201](cont'd)

- b.* The number of qualified applicant referrals and hires made as a result of the job order;
- ~~*c.*~~ ~~The average wage rate for the proposed job(s);~~
- ~~*c.*~~ *c.* The wage range for the proposed job(s);
- ~~*d.*~~ *d.* The prevailing wage as determined by the U.S. Department of Labor;
- ~~*e.*~~ *e.* The current unemployment rate for the county where the employer is located;
- ~~*f.*~~ *f.* The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.10(5) Safety training. The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development or by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

37.10(6) ~~Prevailing wages~~ Wage range.

a. The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the ~~prevailing wages~~ wage range for the jobs in question. The ~~average wage rate and~~ wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

b. To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

- (1) Offenders will not be eligible for unemployment compensation while incarcerated.
- (2) Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.
- (3) If the contract to employ offender labor exceeds six months, the director shall:
 1. Request and receive from the workforce development director the ~~average wage rates and~~ wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders; and
 2. Compile a side-by-side comparison of each employer.

37.10(7) No change.

This rule is intended to implement Iowa Code section 904.701.

ARC 1987C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 88A.3, the Labor Commissioner hereby gives Notice of Intended Action to rescind Chapter 61, “Administration of Iowa Code Chapter 88A,” and adopt a new Chapter 61 with the same title, to rescind Chapter 62, “Safety Rules for Amusement Rides, Amusement Devices, and Concession Booths,” and adopt a new Chapter 62 with the same title, and to adopt new Chapter 63, “Safety Rules for Bungee Jumps,” Iowa Administrative Code.

The rules concerning amusement rides and devices have seen only minor modifications in the past 40 years and are obsolete. As a result, the Labor Commissioner proposes to replace the existing two chapters with three new ones. These proposals reflect new technologies and national industry trends.

Adoption by reference of ASTM Standards on Amusement Rides and Devices is a key component of the proposed rules. These ASTM safety standards are national consensus standards developed with significant input from the amusement ride and device industry, and they are flexible to cover new

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equipment. Separate standards specific to zip lines and tramways and a new chapter for bungee jumping are also proposed.

The proposed new rules also clarify the scope of jurisdiction over amusement devices and concession booths; set minimum standards for employees of amusement operations; codify existing practices for many administrative functions; set forth procedures for denial, termination, suspension, or revocation of an operating permit or sticker; set forth procedures for leasing covered equipment; and conform to various statutory provisions.

The purposes of these amendments are to implement legislative intent and protect the public health and safety.

The Labor Commissioner obtained input from many stakeholders prior to submitting this Notice of Intended Action. Amusement ride operators were given opportunities, including at a December 18, 2014, meeting, to comment on the proposed rules, and adjustments have been made as a result.

If requested by the close of business on June 2, 2015, a public hearing will be held on June 3, 2015, at 1:30 p.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than June 3, 2015, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

After analysis and review of this rule making, an impact on jobs may occur. The impact should be minimized because the compliance deadline for some of the provisions is July 1, 2020. Any possible negative impact on jobs is also minimized because these rules are largely based on industry standards and members of the regulated community have already achieved significant compliance.

These amendments are intended to implement Iowa Code chapter 88A.

The following amendments are proposed.

ITEM 1. Rescind 875—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
ADMINISTRATION OF IOWA CODE CHAPTER 88A

875—61.1(88A) Scope. 875—Chapters 61 through 63 do not apply to the following:

61.1(1) A water park or water park attraction including, but not limited to, a water slide, wave action pool, and lazy river. This subrule does not apply to an amusement ride that propels patrons using a power source other than gravity even though water is present.

61.1(2) A live-animal ride.

61.1(3) A vessel inspected pursuant to Iowa Code chapter 462A.

61.1(4) An amusement structure, such as a haunted house, if the structure uses no mechanical components during operation and patrons move through the structure on their own power. Mechanical components for transporting the structure from site to site do not confer jurisdiction.

61.1(5) A device that meets all of the following criteria:

- a. Was designed and built to be operated by a coin, card, or token;
- b. Was designed and built to be operated by the patron rather than an attendant;
- c. Operates on self-contained wiring that was installed by the manufacturer;
- d. Operates on less than 120 volts of electrical power; and
- e. Is within or is part of a structure subject to a state or local building code.

61.1(6) Playground equipment owned, maintained, and operated by any political subdivision of this state.

61.1(7) A concession booth, amusement device, or amusement ride that meets each of the following:

- a. Is owned and operated by a nonprofit organization; and

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b. Is located in a building subject to inspection by the state fire marshal or a local government.

61.1(8) Nonmechanized physical fitness and playground equipment unless a fee is charged to use the equipment.

61.1(9) Physical fitness equipment that does not meet the definition of “amusement device.”

61.1(10) A tramway used as a ski lift.

61.1(11) A scenic railway operating on standard-gauge rails.

875—61.2(88A) Definitions. The definitions in this rule apply to 875—Chapters 61 through 63.

“*ACCT standards*” means the ACCT Standards for Challenge Courses and Canopy/Zip Line Tours, 8th Edition, published in 2012 by the Association for Challenge Course Technology (ACCT).

“*Act*” means Iowa Code chapter 88A.

“*Amusement device*” means a climbing wall utilizing an auto-belay system; a bungee jump; a dry slide; a mechanical bull; a zip line unless the rider can touch the ground at all times; and an air-supported structure.

“*ANSI*” means the American National Standards Institute.

“*Assistant*” means a paid or volunteer person working under the direct supervision of an attendant or operator.

“*ASTM*” means the ASTM Standards on Amusement Rides and Devices, 8th Edition, published by ASTM International in 2012.

“*Attendant*” means a paid or volunteer person who controls patron restraints or the operation, starting, stopping, or speed of covered equipment.

“*Carnival*” means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

“*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, department of revenue, pursuant to Iowa Code chapter 272D.

“*Commissioner*” means the labor commissioner or the labor commissioner’s authorized representative.

“*Concession booth*” means a structure that is powered by electricity and offers amusements to the public at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days. A structure or enclosure offering only goods, food or beverages, rather than amusements, is not a “concession booth.”

“*Covered equipment*” means an amusement ride, amusement device, concession booth or related electrical equipment that is covered by the Act.

“*Fair*” means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of covered equipment.

“*Major modification*” means any change to the structure of or to an operational characteristic, capacity, classification, or mechanism of covered equipment. “Major modification” includes, but is not limited to, changing the mode of transportation from non-wheeled to a truck or flat-bed mount or changing the mode of assembly or other operational functions from manual to mechanical or hydraulic.

“*NFPA*” means the National Fire Protection Association.

“*Operator*” means a person, or the agent of a person, who owns or controls or has the duty to control the operation of covered equipment at a carnival or fair. “Operator” includes an agency of the state or any of its political subdivisions. “Operator” shall include a person who leases covered equipment and controls or has the duty to control its operation at a carnival or fair.

“*Related electrical equipment*” means a portable generator, blower, or other equipment necessary to the operation of an amusement ride, amusement device, or concession booth.

“*Reportable incident*” means an event described by one or more of the following:

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1. Damage, failure or breakage of a stress-bearing part of an amusement ride or amusement device;
2. Cessation of covered equipment for more than 20 minutes with at least one rider aboard;
3. An occurrence that nearly resulted in personal injury; or
4. An occurrence that caused the operator to cease operations to avoid an injury or illness.

“*Rope lay*” means the length along the rope in which one strand makes a complete revolution around the rope.

“*Walkway*” means a public passage through a carnival, fair, or park.

875—61.3(88A) Owner and operator requirements. No person shall operate covered equipment at a carnival or fair unless the person holds a current operating permit and the covered equipment has passed an Iowa inspection.

61.3(1) *Operating permit.* No later than May 1 and before operation begins each calendar year, the operator of covered equipment shall apply to the commissioner for an operating permit. Application shall be made on a form provided by the commissioner. Each of the following shall be submitted with the completed operating permit application:

- a. The applicable fee;
- b. A certificate of insurance issued by an insurance company authorized to do business in Iowa.

The certificate of insurance shall:

- (1) Certify a policy in the minimum amount of \$1 million for bodily injury, death, or property damage in any one occurrence;
- (2) List the specific pieces of equipment that are covered and, if applicable, those that are not covered; and

- (3) Include “Division of Labor Services—Amusements” as a certificate holder;

c. The operator’s itinerary identifying the covered equipment to be operated and the dates and locations where each will be operated;

d. General design criteria, safety factors, materials utilized, and stress analysis unless the amusement ride or amusement device was granted an Iowa amusement inspection sticker during the previous calendar year;

e. Certification of compliance with applicable training and maintenance requirements;

f. Separately for each bungee jump:

- (1) A site operating manual;

(2) A report which is prepared and sealed by a professional engineer who is licensed in Iowa and which certifies that the design and construction of the equipment and structure are suitable for the intended use and conform to Iowa law, recognized engineering practices, procedures, standards and specifications;

(3) Site plan drawings depicting the preparation area, the jump space, the landing area, the recovery area and other features to be included in the approved operating site;

(4) Specifications of equipment and structures; and

(5) Depictions of the location, specifications, dimensions, and type of air bag, pool or body of water where the jumper will land.

61.3(2) *Changes to information submitted with application.* The operator shall immediately notify the commissioner of any changes to the operator’s itinerary. The operator shall promptly notify the commissioner of other changes to information provided with the operating permit application.

61.3(3) *Leases.* The requirements of this subrule apply when covered equipment is leased for use at a fair or carnival.

a. The owner shall notify the commissioner within 48 hours of leasing the covered equipment. The notification shall include the name, address, and contact information for the lessee and lessor, a description of the covered equipment, and the dates and location of its intended operation.

b. The lessor shall give the lessee a copy of the manual for the leased covered equipment and shall train the lessee or the lessee’s designated representatives on the use of the equipment.

c. The lessee shall obtain an operating permit.

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61.3(4) *Personal injuries and deaths.*

- a. The operator shall immediately report by telephone any accident that results in medical care.
- b. Within 48 hours of an occurrence that results in a report or claim to the operator's insurance provider, the operator shall submit a duplicate copy of the report or claim to the commissioner.
- c. The commissioner may require that the scene of an accident be secured and not disturbed to any greater extent than necessary for removal of the deceased or injured person. If covered equipment is removed from service by the commissioner, the covered equipment shall be returned to service only upon the commissioner's authorization.

61.3(5) *Major breakdown report.* The operator shall report a major breakdown of covered equipment to the commissioner immediately and provide a detailed report in writing within 48 hours. The commissioner may order the covered equipment to be withheld from operation, and in such case, the commissioner shall conduct an immediate investigation. The covered equipment shall be released for repair and operation only after the commissioner's investigation is complete.

61.3(6) *Advance notice of major modification.* The operator shall notify the commissioner in writing at least ten days prior to a major modification. If requested by the commissioner, the operator shall provide plans, diagrams, and ride analysis documentation consistent with ASTM F2291-11.

61.3(7) *Technical data.* If requested by the commissioner, the operator shall provide an English language version of the following:

- a. Data concerning constant, reversible, or eccentric forces generated by acceleration, deceleration, wind, centrifugal action, or inertia.
- b. Stress analysis and other data pertinent to the structural materials, design, structure, factors of safety or performance characteristics.

875—61.4(88A) State inspections. Pursuant to the Act, the commissioner is required to inspect covered equipment. Inspections will be performed according to ASTM F893-10 and ACCT standards, as applicable.

61.4(1) *Inspection types.* In addition to the inspections listed below, the commissioner may conduct an inspection at any time. The fee schedule for annual inspections set forth in Iowa Code section 88A.4 shall apply to all additional inspections.

a. *Annual inspection.* No person shall operate covered equipment at a fair or carnival unless the covered equipment has passed an Iowa inspection in the current calendar year.

b. *Major modification inspection.* After covered equipment has undergone a major modification, the covered equipment must pass an Iowa inspection before it is put back into use.

61.4(2) *Safety order.* If the inspector finds a code violation, the inspector will issue a safety order requiring that the condition be corrected. The deadline for correction of the code violation shall be set by the inspector and shall be stated in the safety order. If the inspector finds one or more code violations pertaining to more than one-half of the seating capacity of an amusement ride, the amusement ride shall not be operated until the violations are corrected. If code violations pertain to one-half or less of the seating capacity of an amusement ride, the amusement ride may be shut down at the discretion of the inspector.

61.4(3) *Cessation order.* If the inspector identifies covered equipment that has a code violation and operation of the covered equipment is an immediate hazard, the inspector shall issue a cessation order. The commissioner shall establish that the code violation is corrected before operation of the covered equipment is resumed.

875—61.5(88A) Amusement inspection sticker. After covered equipment has passed an annual inspection, the commissioner shall affix an amusement inspection sticker to a basic part of the covered equipment in such a manner as to be readily accessible by the inspector. After covered equipment passes a major-modification inspection, a new amusement inspection sticker will be issued. Before covered equipment is sold, the seller shall remove the amusement inspection sticker. If a current amusement inspection sticker is no longer legible, the operator may request a replacement sticker.

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875—61.6(88A,252J,261,272D) Termination, denial, suspension, or revocation of an operating permit.

61.6(1) All active operating permits shall terminate automatically on December 31 of the year of issuance.

61.6(2) The commissioner may suspend or revoke an operating permit for any of the following reasons:

- a.* Negligence in the operation of covered equipment;
- b.* Repeated failure to perform or document proper daily inspections;
- c.* Misrepresentation of material information required as a part of the operating permit application package;
- d.* Failure to comply with a safety order or cessation order issued by the commissioner;
- e.* Operation of covered equipment in disregard of public safety and welfare;
- f.* Termination of the required insurance coverage;
- g.* Failure to pay a liquidated debt owed to the commissioner;
- h.* Receipt by the commissioner of a certificate of noncompliance;
- i.* Failure of an operator to comply with the proper procedures; or
- j.* Failure of an operator to provide an adequate number of properly trained and qualified assistants and attendants.

61.6(3) The commissioner may deny an application for an operating permit if the application packet is inadequate or for any reason set forth as grounds for suspension or revocation of an operating permit.

875—61.7(88A,252J,261,272D) Procedures for revocation, suspension or denial of an operating permit or amusement inspection sticker. The procedures set forth in this rule govern the revocation, suspension or denial of an operating permit or amusement inspection sticker.

61.7(1) If the commissioner initiates revocation, suspension or denial due to the receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

61.7(2) In the event that immediate action is required due to imminent danger to the public health, safety or welfare, the following procedures shall apply:

- a.* The commissioner shall prepare a safety order describing the hazardous condition and shall give the operator, or the operator's representative on site, a copy of the safety order.
- b.* The commissioner shall remove the amusement inspection sticker or stickers from covered equipment as necessary to protect the public health, safety or welfare.
- c.* The commissioner shall proceed as quickly as feasible to give the operator an opportunity for a hearing as set forth in subrule 61.7(3).

61.7(3) In all other cases, the following procedures shall apply:

- a.* The commissioner shall serve a notice by certified mail to the address listed on the operating permit application form or by other service as permitted by Iowa Code chapter 17A.
- b.* The operator shall have 20 days to file a written notice of contest with the commissioner. If the operator does not file a written notice of contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.
- c.* The hearing procedures in 875—Chapter 1 shall govern.
- d.* Within five business days of final agency action revoking or suspending an operating permit, the operator shall forfeit the operating permit to the labor commissioner.

875—61.8(88A) Payments. Fees due for inspections and operating permits shall be paid by money order or certified check unless the commissioner has given prior approval for a check written on a business account.

These rules are intended to implement Iowa Code chapter 88A.

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ITEM 2. Rescind 875—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES,
AND CONCESSION BOOTHS

875—62.1(88A) Scope. Rule 875—62.2(88A) applies to all covered equipment. The remaining rules of this chapter apply to all covered equipment, except a bungee jump.

875—62.2(88A) Other codes.

62.2(1) Carnivals, fairs, operators, and covered equipment may be regulated by city or county ordinances. Iowa Code chapter 92 and 875—Chapter 32 concerning child labor apply when an operator has employees who are under the age of 18. Iowa Code chapters 91A and 91D and 875—Chapters 35 and 215 to 218 govern payment of wages to an operator's employees. Nothing in 875—Chapters 61 through 63 shall be viewed as providing an exemption, waiver, or variance from any otherwise applicable regulation or statute.

62.2(2) State fire marshal rules set forth at 661—Chapter 201, General Fire Safety Requirements, are adopted by reference.

62.2(3) The following occupational safety and health standards are adopted by reference:

- a. 29 CFR 1910, Subpart D, Walking-working surfaces;
- b. 29 CFR 1910, Subpart H, Hazardous material;
- c. 29 CFR 1910, Subpart I, Personal protective equipment;
- d. 29 CFR 1910.147, Control of hazardous energy (lockout/tagout);
- e. 29 CFR 1910.151, Medical services and first aid;
- f. 29 CFR 1910, Subpart N, Materials handling and storage;
- g. 29 CFR 1910, Subpart O, Machinery and machine guarding;
- h. 29 CFR 1910, Subpart Q, Welding, cutting and brazing; and
- i. 29 CFR 1910, Subpart S, Electrical.

875—62.3(88A) Site requirements.

62.3(1) Design. The grounds of a fair or carnival shall be designed according to the following criteria:

- a. Clearance around covered equipment shall meet or exceed the manufacturer's recommendations.
- b. Clearance around covered equipment shall be at least 6 feet unless a fence that is designed by the manufacturer as an integral part of the equipment is properly installed.
- c. Clearance between covered equipment and a facility for cooking shall be at least 10 feet.
- d. Walkways shall be wide, unobstructed, and open at each end.
- e. Walkways through concession booth backyards and over water lines and electrical lines shall be avoided.
- f. Intermingling of water lines and electrical lines shall be avoided.
- g. Guy wires, braces and ropes used for support:
 - (1) Shall not be placed in walkways or in the entrances or exits for covered equipment; and
 - (2) Shall be clearly marked with streamers or other devices when located adjacent to walkways.
- h. Stakes shall be covered.

62.3(2) Housekeeping. Adequate containers for refuse shall be provided. Accumulations of trash shall be removed promptly.

62.3(3) Lighting. Entrances and exits for covered equipment shall be provided with at least 5 foot-candles of light measured at grade level. No less than 10 foot-candles of lighting shall be provided at all work levels for assembly and disassembly of covered equipment.

62.3(4) Internal combustion engines. Internal combustion engines shall be a minimum of 5 feet from an air-supported structure and shall be guarded or fenced to prevent patron exposure or access. An

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internal combustion engine operated in an enclosed area shall be provided with fresh-air intake and an exhaust discharge flue.

62.3(5) *Flame propagation.* A tent enclosed with walls or sides and erected over covered equipment during operation or assembly of the covered equipment shall resist flame propagation after weathering. The operator shall have a certificate or a test report indicating the material meets the flame propagation performance criteria for tents set forth in Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, NFPA Number 701-2010.

62.3(6) *Flammable waste and materials.* An operator shall provide identified covered, labeled, metal containers for flammable waste. The containers shall be available to staff and attendants but shall not be accessible to patrons.

62.3(7) *Storage of hazardous or flammable materials.* Storage of more than 50 gallons of fuel, other flammable material, or hazardous gas is not permitted in any area accessible to the public.

62.3(8) *Walking surfaces.* Entrances and exits for covered equipment shall be adequate, unobstructed, and in accordance with the manufacturer's instructions. Hazards such as protruding nails, splinters, holes, loose boards, debris, obstructions, and projections are prohibited. Stairways, ramps and railings that meet the requirements of 29 CFR 1910.23 shall be provided where patrons enter or exit covered equipment above or below grade.

62.3(9) *Fences.* Fences or other barriers shall be:

- a. Located to keep patrons at least 6 feet away from moving parts; and
- b. Staked or sandbagged securely to prevent movement.

62.3(10) *Crowd control.* Chains, bars, gates or similar devices shall be used to direct and control patrons in a queue line.

62.3(11) *Setup.* Operators shall follow the manufacturer's instructions to ensure that covered equipment is level and stable. If the manufacturer's instructions are not available, the following shall apply:

- a. Permanent rides shall be placed on poured, reinforced concrete.
- b. Blocking for temporary rides shall meet the following criteria:
 - (1) Blocking shall be wider than it is high.
 - (2) The top level of the blocking shall be wider than the mud sill or landing gear.
 - (3) Blocks shall not be soft, damaged, deteriorated, hollow, porous, or brick.
 - (4) Blocking shall be placed on ground that was leveled by digging rather than by filling.
 - (5) Voids larger than ¼ inch between blocks are prohibited.
 - (6) Two or more layers of blocks shall be crossed.

875—62.4(88A) Design and manufacture of covered equipment. This rule sets forth requirements for the design and manufacture of all covered equipment, except a bungee jump.

62.4(1) *Codes adopted by reference.* ASTM F2374-10 shall apply to all air-supported structures, notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

a. *All covered equipment.* Effective January 1, 2016, all covered equipment shall comply with National Electric Code, NFPA 70-2014; however, the requirement that a disconnecting means be located within 6 feet of the operator's station shall not apply to an air-supported structure.

b. *Tramways.* All tramways subject to the rules of this chapter and in use prior to January 1, 2016, shall be designed and tested in accordance with the ANSI B77.1 standard in effect at the time of installation.

c. *Zip lines.* All zip lines subject to the rules of this chapter shall be designed and tested in accordance with ACCT standards.

d. *New covered equipment.* Effective January 1, 2016, new covered equipment, other than zip lines, shall be designed and tested in accordance with ANSI B77.1-2011 and ANSI B77.1A-2012 and ASTM F846-92(2009), F1159-03a, F1193-06, F1957-99(2011), F2007-11, F2137-11, F2291-11, F2374-10, F2375-09, F2376-08, and F2460-11, as applicable.

e. *Existing covered equipment.* Other than zip lines, covered equipment manufactured before January 1, 2016, must comply with the applicable design criteria of subrule 62.4(2) through July 1,

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2020. After July 1, 2020, covered equipment, except tramways and zip lines, shall meet the criteria for service-proven equipment set forth in ASTM F2291-11.

62.4(2) *Design criteria.* Structural materials and construction of covered equipment shall conform to recognized engineering practices, procedures, standards and specifications. The design, materials and construction features shall incorporate a safety factor of 5 or alternative safety factors recommended by the original manufacturer or by a professional engineer with credentials and experience acceptable to the commissioner.

62.4(3) *Data plate.* A manufacturer's data plate in compliance with ASTM F1193-06, section 10, shall be affixed to covered equipment.

62.4(4) *Speed-limiting device.* Covered equipment capable of exceeding its maximum safe operating speed shall be provided with a speed-limiting device. Steam engines that require an overspeed throttle setting to initiate the operation are exempt from the requirement of this subrule.

62.4(5) *Patron restraint and containment.* Covered equipment shall be designed to safely contain and restrain patrons during the intended action. Any surface within reach of a patron shall be smooth, rounded, and free from projections such as bolts, screws, or splinters. Padding shall be installed to prevent or minimize the possibility of injury.

62.4(6) *Secondary support.* The labor commissioner may require a secondary support for a tub, car, seat, chair, gondola, or other carrier that has a single point of attachment.

62.4(7) *Safety stop devices.* Electrical safety stop devices shall cause covered equipment to fail safe in the event of power failure or any malfunction.

62.4(8) *Chains.* Chains with certified and sufficient load-carrying capacities shall be used for safety devices and in stress-bearing applications. Twisted wire or stamped chain shall not be used for safety devices or in stress-bearing applications.

62.4(9) *Front openings and awnings.* Front openings and awnings shall be stabilized with safety latches, safety pins, or other devices.

62.4(10) *Shooting galleries.* A shooting gallery shall use only equipment, shells, pellets, and bullets designed for shooting galleries. Means shall be provided to prevent turning of the weapon away from the intended target.

62.4(11) *Flying objects.* Where flying objects such as darts, balls, pellets, shot, and bullets are a potential hazard:

- a. Ricocheting shall be prevented by absorbent wings or panels; and
- b. Absorbing walls, sandbags, or other mechanisms shall be installed along the bottom, back, and sides of the booth to protect passersby.

875—62.5(88A) Maintenance of covered equipment. An operator shall conduct periodic inspections, repairs, tests, and maintenance as set forth in this rule, the manufacturer's recommendations, ANSI B77.1-2011, ANSI B77.1A-2012, ACCT standards, and ASTM F770-11, F846-92(2009), F853-05, F1159-03a, F1193-06, F2007-11, F2137-11, F2374-10, F2375-09, F2376-08, and F2460-11, as applicable. An operator shall make a written record of all inspections, maintenance, tests, and repairs of covered equipment, and the records shall be available to the commissioner. ASTM F2374-10 shall apply to all air-supported structures, notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

62.5(1) *Pressure equipment.* The operator shall inspect and maintain all air and gas compressors, tanks, piping and equipment pursuant to the manufacturer's recommendations.

62.5(2) *Wire rope rollers, drums and sheaves.* The operator shall periodically inspect and maintain for cleanliness and safety the mechanical devices, such as rollers, drums and sheaves, that brake, control, or come into contact with wire rope. The operator shall immediately replace mechanical devices that have broken or damaged parts, missing pieces, undue roughness or uneven wear.

62.5(3) *Mechanical members.* The operator shall periodically inspect pinions, frames, sweeps, eccentrics and other mechanical members for wear, cracks and other signs of deterioration. The operator shall make necessary repairs.

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62.5(4) Bearings. The operator shall periodically inspect, lubricate, clean and repair bearing surfaces, ball joints and other single or multiple direction mechanical surfaces.

62.5(5) Gears. The operator shall keep gears properly aligned and in good repair.

62.5(6) Nondestructive testing. The operator shall ensure that appropriate nondestructive testing (NDT) is conducted and that documentation is available for review. NDT shall be performed at the following times:

- a. At intervals recommended by the manufacturer;
- b. When required by the commissioner due to a welded repair;
- c. When required by the commissioner due to a visual indication of a potentially hazardous condition; and
- d. When recommended by a bulletin prepared according to ASTM F853-05, section 4.1.14.

62.5(7) Electrical wiring. Electrical wiring shall meet the requirements of National Electrical Code, NFPA 70-2014. The operator shall regularly inspect wiring for wear, cracks, or other signs of deterioration and replace worn wiring.

62.5(8) Patron restraint. The operator shall inspect retaining, restraining and containing devices daily before use and shall immediately repair or replace worn or damaged areas.

62.5(9) Hydraulic systems. The operator shall inspect each hydraulic system for leaks, damaged pipes, and worn or deteriorated hoses. Material that hinders visible inspection is prohibited. The operator shall make appropriate repairs.

62.5(10) Relief devices. The operator shall periodically exercise pressure relief valves or devices to ensure that they operate properly. The operator shall periodically inspect relief devices to ensure that they are set at appropriate limits.

62.5(11) Wire rope inspection. The operator shall regularly inspect the entire length of each wire rope according to the manufacturer's recommendations. At a minimum, wire rope shall be inspected each time covered equipment is set up.

62.5(12) Wire rope replacement. The operator shall replace a wire rope if:

- a. There are six or more distributed broken wires in one rope lay or three broken wires in one strand in one rope lay;
- b. There is more than one broken wire in one rope lay and one of the following conditions exists:
 - (1) The wire rope is subject to constant pressure during operation, assembly, or disassembly of covered equipment;
 - (2) The wire rope is subject to surge shocks; or
 - (3) The wire rope could cause serious injuries by its failure; or
- c. At least one of the following conditions exists on at least one location on the wire rope:
 - (1) Abrasion, nicking, scrubbing or peening causing loss of more than one-third of the original diameter of the outside wires;
 - (2) Severe corrosion or rust;
 - (3) Severe kinking, crushing, bird-caging or other damage resulting in distortion of the rope structure;
 - (4) Heat damage;
 - (5) For a rope with an original diameter of 3/4 inch or less, a loss in diameter of more than 3/64 inch;
 - (6) For a rope with an original diameter of 7/8 inch to 1 1/8 inch, a loss in diameter of more than 1/16 inch; or
 - (7) For a rope with an original diameter of 1 1/4 inches to 1 1/2 inches, a loss in diameter of more than 3/32 inch.

62.5(13) Wire rope repair. Without lengthening or splicing, the operator shall replace the entire length of a wire rope that is damaged in one location with new rope of equivalent design and capacity. However, if feasible, wire rope that is worn near an attachment point may be repaired by shortening the length of the wire rope, rather than by replacing the entire rope; and wire ropes on tramways may be lengthened or repaired by splicing in accordance with the applicable ANSI code.

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62.5(14) Rope-fastening devices. The operator shall inspect couplings, sockets and fittings to ensure that they are in accordance with the instructions and specifications of the designer, engineer or manufacturer.

62.5(15) Wood components. The operator shall inspect footings, splices, uprights, track timbers, ledgers, sills, laps, bracing, flooring and all other wood components of covered equipment for deterioration, cracks, or fractures. The operator shall replace defective wood members with material of equal or greater strength and capacity.

The operator shall remove a sufficient amount of soil around piling or wood members embedded in dirt to check for deterioration. When a wood piling requires replacement, the operator shall install a concrete pier. The top of the pier shall be installed so that the attached wood member is not exposed to dirt or water accumulation.

62.5(16) Welding, cutting, or brazing. Welding, cutting, or brazing shall not be performed where the point of operation is more than 4 feet above grade if patrons are on site. Where the point of operation is less than 4 feet above grade, welding, cutting or brazing may be performed if at least one of the following applies:

- a. Patrons are not on site.
- b. Patrons are separated from the point of operation by a solid barrier.
- c. A fence or similar barrier is erected to keep the public at least 150 feet from an arc welding operation that uses an electrode with a diameter of 3/16 inch or less.
- d. A fence or similar barrier is erected to keep the public at least 35 feet from gas welding, soldering, cutting or brazing of materials 1/2 inch thick or less.
- e. A fence or similar barrier is erected to keep the public at least 50 feet from gas welding, soldering, cutting or brazing of materials more than 1/2 inch thick.

62.5(17) Fasteners. The operator shall inspect nails, bolts, lag bolts and other fasteners for tightness, torque, and deterioration. The operator shall follow the manufacturer's recommendations for torque, replacement intervals, and fastener types.

62.5(18) Brakes and rollback devices. Brakes and rollback devices shall be inspected and maintained according to the manufacturer's recommendations.

875—62.6(88A) Operations. Operations shall conform to ACCT standards and ASTM F770-11, F846-92(2009), F853-05, F1957-99(2011), F2007-11, F2137-11, F2374-10, F2375-09, F2376-08, and F2460-11, as applicable. ASTM F2374-10 shall apply to all air-supported structures, notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

62.6(1) Attendants and assistants. The operator shall provide a sufficient number of competent, trained workers who shall be recognizable by their uniforms. Covered equipment shall have continuous, direct supervision while in use by a patron.

a. Each attendant of a concession booth, except a shooting gallery or dart game, shall be at least 14 years of age. For an air-supported structure, the minimum age for an attendant shall be at least 16 years of age; however, if the manufacturer's recommendations for an air-supported structure include adult supervision, the attendant shall be at least 18 years of age and shall directly supervise patrons. All other attendants shall be at least 18 years of age.

b. Each assistant shall be at least 16 years of age.

c. Each attendant and assistant shall be trained according to ACCT standards and ASTM F770, F2007-11, F2374-10, and F2460-11, as applicable. Training documentation shall be available to the commissioner.

d. An attendant shall have control of the covered equipment when it is in operation. When the covered equipment is shut down, provision shall be made to prevent unauthorized operation.

e. Under normal operations, the duties of an assistant shall be limited to securing or removing seat restraints; checking height compliance; and loading and unloading patrons. In case of emergency, an assistant who has received appropriate training may terminate operations.

62.6(2) Signal systems. When an attendant does not have a clear view of the point where passengers are loaded or unloaded, signal systems shall be provided and utilized for controlling, starting and stopping

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covered equipment. Where coded signals are required, the code of signals shall be printed and kept posted at both the attendant's station and the location from which the signals are given. Attendants who use the signals shall be trained in their use. Signal systems shall be tested each day prior to operation of the covered equipment. Covered equipment that requires a signal system shall not be operated if the system is not performing correctly.

62.6(3) *Overspeeding and overloading.* An attendant shall not load covered equipment beyond its rated capacity nor operate the covered equipment at a speed other than that prescribed by the design engineer or manufacturer.

62.6(4) *Refueling.* Fuel tanks for internal combustion engines should be large enough to run without interruption during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day's operation, the covered equipment shall be shut down and evacuated during refueling.

62.6(5) *Safety stop device.* After actuation of a safety stop device, the cause of the actuation shall be determined and corrected before operation of covered equipment is resumed. No person shall operate covered equipment if a safety stop device has been bypassed.

875—62.7(88A) Patrons.

62.7(1) *Notice to patrons.* The operator shall post signs as set forth in Iowa Code section 88A.16.

62.7(2) *Patron injury report.* Where covered equipment is operated, the operator shall make available an injury report form for use by patrons. The form shall comply with Iowa Code section 88A.15.

62.7(3) *Emergency procedure.* When lightning, high wind, tornado warning, severe storm warning, fire, violence, riot or civil disturbance creates a direct threat to patrons, the operators, assistants, and attendants shall cease operation of covered equipment and evacuate all patrons. Operation shall not resume until conditions have returned to a normal, safe operating environment.

62.7(4) *Medical and first aid.* The operator shall make available to patrons the same medical and first-aid provisions that are available to employees pursuant to 29 CFR 1910.151.

62.7(5) *Evacuation plan.* The operator shall plan for prompt retrieval of patrons from covered equipment that will not operate.

These rules are intended to implement Iowa Code chapter 88A.

ITEM 3. Adopt the following **new** 875—Chapter 63:

CHAPTER 63
SAFETY RULES FOR BUNGEE JUMPS

875—63.1(88A) Definitions.

"Air bag" means a device that cradles the body by using an air release breather system to dissipate the energy due to a fall, thereby allowing the jumper to land without an abrupt stop or bounce.

"Approved operating site" means the area, including the preparation area, the jump space, the landing area and the recovery area, reflected on the site plan drawings submitted to the commissioner by the operator.

"Bungee catapulting" means the action by which a jumper is held on the ground while the bungee cord is stretched causing the jumper to fly up when the jumper is released.

"Bungee cord" means the elastic rope to which the jumper is attached.

"Bungee jump" means the covered amusement device. "Bungee jump" does not mean a device allowing a patron to jump on a trampoline while attached to one or more bungee cords.

"Bungee jumping" means the action by which a jumper free falls from a height and descent is limited by attachment to the bungee cord.

"Bungee jump operation" means a site at which bungee jumping is conducted.

"Carabiner" means a shaped metal or alloy device used to connect sections of the jump rigging, equipment or safety gear.

"Cord" means a bungee cord.

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“Dynamic load” means the load placed on the rigging and attachments by the initial free fall of the jumper and the bouncing movements of the jumper.

“Equipment” means each component that is utilized in a bungee jump operation, including devices used to raise, lower, and hold loads.

“Fence” means a structure designed and constructed to restrict people, animals and objects from entering the jump area.

“G-force” means acceleration felt as weight.

“Jump area” means the ground level area of the jump space.

“Jump direction” means the direction a jumper jumps when leaving the platform from the jump point. Jump direction is not affected by whether the jumper faces forward, backward or sideways.

“Jumper” means the person who, while attached to a bungee cord, falls or jumps from a platform or structure.

“Jump harness” means an assembly worn by a jumper and attached to a bungee cord.

“Jump height” means the distance from the jump point to the position on the ground where an object dropped from the jump point would impact in the absence of an air bag or other impediment.

“Jump master” means the person who is responsible for the bungee jump operation and who takes a jumper through the final stages to the actual jump or release.

“Jump point” means the location on the platform from which the jumper leaves the platform.

“Jump space” means the cylinder-shaped space with a center line extending downward from the jump point along the line of the jump height. The top of the jump space cylinder is at least 10 feet above the jump point. For jumps over land, the bottom of the jump space cylinder is the air bag. For jumps over water, the bottom of the jump space cylinder is the water surface. The distance from the jump point to the bottom of the jump space must be the maximum system length plus at least 30 feet. The radius of the cylinder is at least 70 percent of the jump height.

“Landing area” means the surface where the jumper lands. If a lifting device moves the jumper so that landing occurs away from the jump area, the area covered by the movement of the lifting device shall be considered part of the landing area.

“Loaded length” means the length of the bungee cord when extended to its fullest designed length.

“Lowering system” means manual or mechanical equipment capable of lowering a jumper to the designated landing area

“Maximum system length” means the maximum extended length of a bungee cord system including all attachments.

“Mechanically powered lowering system” means a system that utilizes a machine, rather than a human or other power source, to lower the jumper to the landing area.

“Platform” means the apparatus that is attached to a structure and from which a jumper falls or jumps.

“Preparation area” means the area where the jumper is registered, weighed, notified of potential risks and otherwise prepared for the jump.

“Recovery area” means the area next to the landing area where the jumper may recover from the jump before exiting the bungee jump operation site.

“Rigging system” means the bungee cord plus any combination of components that connect the jumper through the bungee cord to an attachment point on the structure, lifting device or platform.

“Rigging system attachment point” means a device on the structure, lifting device or platform to which the rigging system is connected.

“Safety line” means a line used to connect a safety harness or belt to an anchor point.

“Sandbagging” means the practice of loading excess weight to a jumper in order to gain extra momentum on the rebound.

“Site operating manual” means the document containing the procedures and forms for the operation of bungee jumping activities and equipment.

“Structure” means a tower or similar structure used for bungee jumping.

“Tandem jumping” means the practice of having two or more people harnessed together while they jump or fall simultaneously from the same jump platform.

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875—63.2(88A) Prohibited activities. The following activities are prohibited:

1. Bungee catapulting where an overhead obstruction exists;
2. Sandbagging;
3. Tandem jumping; and
4. Jumping from a bridge, television tower, crane, grain bin, hot air balloon or any height not designed for the purpose of bungee jumping.

875—63.3(88A) Site requirements.

63.3(1) Storage. Adequate storage shall be provided to protect equipment from physical, chemical and ultraviolet-ray damage. The storage area shall be secured against unauthorized entry.

63.3(2) Communications.

- a. There shall be a public address system in operation during the hours of business.
- b. A radio communication link shall be established between the platform and the staff responsible for jumper registration, landing, and recovery.
- c. There shall be a means on site to communicate with local emergency responders.
- d. A clearly visible sign shall be placed at the entrance to the operating site setting forth medical restrictions for jumpers, the minimum-age requirement of 18 years of age, and instructions for jumpers.

63.3(3) Wind meter. An anemometer shall be installed in accordance with the manufacturer's recommendations and in a location easily visible to the staff.

63.3(4) Lighting. Adequate lighting shall be provided at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. At a minimum, the lighting system shall be capable of lighting the jump platform, the jump space and the landing area.

63.3(5) Fences. The operator shall use fences in compliance with ASTM 2291-11, part 14, to limit access to the site.

875—63.4(88A) Design.

63.4(1) Platform. A platform shall:

- a. Be capable of supporting at least five times the rated capacity or maximum intended load of the platform. If the jump equipment is attached to the platform as distinct from the structure, the dynamic load factor shall be added to the rated capacity or maximum intended load;
- b. Be attached with devices and to a part of the structure which is able to support at least five times the weight of the platform plus the rated capacity or maximum intended load;
- c. Have a slip-resistant floor surface;
- d. Have safety harness anchor points that are designed and located to facilitate ease of movement on the platform;
- e. Have a permanent enclosure, separate from the jump point, to contain the jumper during preparations such as fitting the jumper with a jump harness;
- f. Be equipped with a gate across the jump point. The gate shall open to the inside of the platform and shall have a safety lock or restraining device to prevent accidental opening;
- g. Be permanently marked with the maximum capacity of the platform and the rated capacity or maximum intended load; and
- h. Be configured to ensure that a jumper shall not come into contact with the supporting structure or tower.

63.4(2) Lowering system.

a. The system for lowering the jumper to the landing area shall be capable of supporting at least five times the rated capacity or maximum intended load of the system. The lowering system shall be mechanically powered and shall not be capable of free fall.

b. There shall be under the control of site personnel and described in the site emergency plan an alternative method for jumper recovery.

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63.4(3) Bungee cord specifications.

a. The bungee cords shall be designed and tested to perform within the prescribed limits of stretch and load as stated in this subrule. The cord shall be made from natural or synthetic rubber or rubber blend. The extended length of the cord shall be consistent each time the same load is applied.

b. The G-force on a jumper using a waist and chest harness shall not exceed 4.5. The G-force on a jumper using an ankle harness shall not exceed 3.5.

c. The operator shall ensure that the minimum factor of safety for any cord configuration attached to a jumper is at least 5. The cord configuration's minimum breaking strength divided by the maximum dynamic load possible for a jumper must be equal to or greater than 5.

d. The design, manufacturing and testing of the bungee cords shall meet the following specifications:

(1) In a single-cord system, the binding shall hold the cord threads in the designed positions. The binding shall have the same characteristics as the cord itself. In a multiple-cord system, the cords shall be bound together in a manner that prevents potential entanglement of the jumper. The binding shall not damage or affect the performance of the cords.

(2) A bungee cord shall be designed and tested to perform in accordance with this rule.

(3) A load-verses-elongation curve shall be used to calculate the maximum G-force and factor of safety of the lot of bungee cords tested. These test results shall be readily available to the commissioner upon request.

(4) The end connections shall have a minimum safety factor of five times the maximum dynamic load for the bungee cord configuration. End connections shall be of a size and shape to allow easy attachment to the jumper harnesses and to the rigging. On multiple-cord systems, each cord shall meet its own independent end connection. On multiple-cord systems, end attachment points shall be bound together in a protective sheath that allows the individual ends to move with respect to each other.

(5) The operator shall ensure that the manufacturer of a bungee cord performs conclusive minimum break strength testing on a representative sample of all manufactured bungee cords. Construction of bungee cord samples shall be consistent with the manufacturer's standard methods, including bungee cord loop end connections that meet the specifications in this rule. The tests shall be performed or supervised by an independent certified testing authority or an independent licensed professional engineer. The testing authority shall determine the ultimate tensile strength of each test specimen and use the lowest failure value recorded as the ultimate tensile strength value for the corresponding lot of bungee cords. The ultimate tensile strength is reached when the applied load reaches a maximum before failure. Test results shall be readily available to the commissioner upon request.

63.4(4) Jump harness and hardware.

a. The harnesses, webbing, bindings, ropes and hardware shall be capable of supporting at least five times the rated capacity or maximum intended load.

b. A jumper shall be secured to the bungee cord at two separate points on the jumper's body. The jump harness system shall be one of the following:

(1) A full body harness with two different and separate attachment points.

(2) A waist harness used with a shoulder harness.

(3) An ankle harness system with a safety line to a waist harness or a full body harness.

c. Harnesses shall be available to fit the range of patron sizes accepted for jumping.

d. Harnesses shall be specifically designed and manufactured for mountaineering or bungee jumping.

e. The load-supporting slings or webbing shall be flat tubular mountaineering webbing or its equivalent. Minimum breaking strength shall be 6,000 pounds. Slings or webbings shall be formed by sewing or shall be tied properly with a water knot with taped ends.

f. Carabiners shall be the steel screw, gate type with a minimum breaking strength of 6,000 pounds. The carabiners shall be designed and constructed using the standards for mountaineering gear.

g. The ropes, pulleys and shackles used to raise, lower or hold the jumper shall have a minimum breaking strength of 6,000 pounds. The pulleys shall be compatible with the rope.

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h. The rigging system shall be attached to at least two rigging system attachment points. Each rigging system attachment point shall meet or exceed the following:

- (1) Each rigging system attachment point shall have a safety factor of 5 and shall be capable of bearing a weight of at least 8,000 pounds.
- (2) If a rigging system attachment point is made of wire rope, it shall have swaged ends with the thimble eyes.
- (3) If a rigging system attachment point is made of webbing, it shall be manufactured by a company that manufactures the devices for crane and rigging companies.

63.4(5) Landing area, recovery area and jump area.

a. A jump over land requires the use of an air bag certified by the manufacturer to be capable of protecting a body falling from the height of the jump point.

- (1) The minimum impact surface area of the air bag shall be as follows:

Jump Height	Minimum Impact Surface Area
70 – 100 feet:	500 square feet (20 x 25)
100 – 150 feet:	800 square feet (23 x 35)
150 – 200 feet:	1000 square feet (25 x 40)

- (2) The air bag shall be in position before jumper preparation begins on the platform.
- (3) Upon completion of a jump, the jumper shall be lowered into the landing area.
- (4) The landing area shall be free of spectators at all times.
- (5) The jump space shall be free of equipment and people when a jumper is being prepared on the jump platform and until the jumper lands in the landing area.
- (6) A place for the jumper to sit and recover shall be provided close to, but outside, the landing area.

b. The following requirements apply where a body of water is intended for use instead of an air bag:

- (1) The size of the body of water shall meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
- (2) The minimum water depth of the minimum impact surface area shall be 10 feet.
- (3) A vessel with at least two staff members shall be positioned nearby to recover jumpers. The recovery vessel's crew shall wear U.S. Coast Guard-approved life jackets. The recovery vessel shall be equipped with U.S. Coast Guard-approved life jackets for jumpers and with rescue equipment.
- (4) The jump area shall be free of other vessels, floating or submerged objects, the public, and spectators. When the landing area is in open waters, it shall be defined by the deployment of buoys. Signs of appropriate size stating "BUNGEE JUMPING—KEEP CLEAR" shall be displayed.

c. The following requirements apply where a pool of water is intended for use instead of an air bag:

- (1) The pool size shall meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
- (2) The minimum water depth shall be 10 feet.
- (3) Rescue equipment shall be available.
- (4) Only the operators and participants of the bungee jump shall be within the landing area.
- (5) The landing area shall be enclosed by a fence of adequate height and design to prevent persons other than operators and jumpers from entering.
- (6) The pool shall conform to any applicable requirements enforced by the Iowa department of public health.

875—63.5(88A) Maintenance. The operator shall follow the inspection and testing recommendations of the equipment manufacturers. When those recommendations conflict with the testing and inspection provisions of this rule, the provisions affording the higher degree of safety shall be followed. Inspections, findings and corrective action shall be recorded in the site log.

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63.5(1) Tests and inspections by the operator.

- a. The jump rigging, harness, lowering system and safety gear shall be regularly inspected and tested as set forth in the site operating manual.
- b. In accordance with the site operating manual, the ropes, webbing and bindings shall be inspected visually and by feel for signs of wear, fraying or damage.
- c. The cord ends shall be inspected as often as the manufacturer specifies or no less than daily for wear, slippage or other abnormalities.

63.5(2) Replacement of rigging and equipment.

- a. Hardware that displays surface damage shall be replaced immediately.
- b. Hardware that has been subjected to an abnormal loading or impact against hard surfaces shall be replaced immediately.
- c. Substandard equipment, rigging or personal protective equipment shall be replaced immediately.
- d. Bungee cords shall be replaced when they have been subjected to the maximum number of jumps recommended by the manufacturer, when they exhibit deterioration or damage, or when they do not react according to specifications. Retired bungee cords shall be cut into lengths of not more than 75 inches. The attachment points shall be retired when the cord is retired.

63.5(3) Replacement equipment. Replacement equipment shall be stored in a secure area to prevent tampering or vandalism. Replacement equipment for the following shall always be available on the approved operating site:

- a. Bungee cords;
- b. Rigging ropes;
- c. Binding and ankle straps for jumpers;
- d. Jump harnesses; and
- e. Lifelines and clips.

63.5(4) Identification of equipment.

- a. Each bungee cord shall have its own permanent identification number.
- b. The form of identification may not damage or detract from the integrity of the material.
- c. The identification shall be clearly visible to the operators during daily operations.
- d. The identification of each piece of equipment shall be recorded in the site operating manual.

875—63.6(88A) Operations.

63.6(1) Site operating manual. The operator shall ensure that the site has an operating manual that includes the following elements:

- a. A site plan showing the fencing, the site furniture, the preparation area, the jump space, the jump area, the jump direction, the landing area and the recovery area.
- b. A site plan showing a profile of the site and defining the jump platform and its supporting structure, the maximum system length of the bungee cord, the jump space and the jump area.
- c. A complete description of each of the following:
 - (1) The system of operation;
 - (2) The components in the rigging system, including the manufacturer's specification or a laboratory test certificate of each component;
 - (3) All safety and rescue equipment;
 - (4) A job description for the personnel employed on the site and the minimum qualifications for each person;
 - (5) Emergency procedures for all foreseeable scenarios;
 - (6) Standard operating procedures for every person employed in processing the jumper;
 - (7) The procedure for reporting accidents and reportable incidents to the commissioner;
 - (8) Equipment inspection procedures, including inspection record keeping;
 - (9) Maintenance procedures; and
 - (10) The method of verifying and recording each jump master's qualifications.

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63.6(2) Emergency provisions and procedures.

a. Each approved operating site shall have a written emergency plan. The plan shall be made available to any local emergency service responsible for providing emergency rescue service.

b. At least one member of a bungee jump operation staff shall have current first-aid certification and shall complete an annual refresher course from the American Red Cross.

c. For a jump over water, the jump master and at least one landing assistant shall hold a current American Red Cross lifesaving certificate.

d. Emergency lighting shall be available in case of power failure at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. The emergency lighting system shall be capable of lighting the jump platform, the jump space and the landing area. The emergency lighting system shall have its own power source.

e. A backup means of communication shall be available in case of a power failure.

f. The jump master or operator shall cease jumping operations if wind speed exceeds 25 miles per hour or thunder is audible.

63.6(3) Minimum staff requirements.

a. Prior to the opening of a bungee jump operation, the operator shall train site personnel to be familiar with the boundaries of the jump space, the jump area, the site operating manual and the emergency plan.

b. A bungee jump operation shall have at least one jump master, one jump assistant, one landing assistant, and one registration assistant present at all times during which jumping is being conducted.

c. The staff shall be easily identifiable by their clothing.

d. Staff shall be briefed for each day's operations. This briefing shall include assignment of the designated jump master.

e. Each jump shall be directly controlled by a jump master.

63.6(4) Jump master.

a. A jump master shall be at least 18 years of age, shall have assisted at least 25 jumpers, and shall have received a minimum of 30 hours of jump training.

b. A jump master shall have a thorough knowledge of the bungee jump site, its equipment, operating manual, procedures, emergency plan and staff duties.

c. A jump master shall:

(1) With the jump assistant, escort the jumper from the preparation area to the jump point;

(2) Select the appropriate bungee cord and adjust the rigging for each jump;

(3) Brief each jumper on the procedures for jumping, landing, lowering and recovery;

(4) Take the jumper through the final stages before the jump;

(5) Securely attach to the platform rigging bar or to the rigging the top end of the bungee cords before preparing the jumper;

(6) Be present at the jump point during each jump;

(7) Close the platform gate while no jumper is present;

(8) Direct the operation of the lowering system;

(9) Train other bungee jump operation staff; and

(10) Ensure that the procedures set out in the site operating manual are followed.

63.6(5) Jump assistant. The operator or jump master shall designate at least one individual to act as a jump assistant. The jump assistant shall:

a. With the jump master, escort the jumper from the preparation area to the jump point;

b. Assist the jump master in preparing the jumper;

c. Assist in attaching the jumper to the harness and rigging;

d. Perform check procedures;

e. Operate the lowering system; and

f. Assist in controlling the public.

63.6(6) Landing assistant. The operator or jump master shall designate at least one individual to act as a landing assistant. The landing assistant's duties include the following:

a. Assisting the jumper to the landing pad;

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- b. Assisting the jumper to the recovery area;
- c. Overseeing the recovery of the jumper; and
- d. Assisting in controlling the public.

63.6(7) Registration assistant. The operator or jump master shall designate at least one individual to act as a registration assistant at each bungee jump operation site. The registration assistant shall:

- a. Register the jumper;
- b. Inform each jumper that there are medical conditions that could be adversely affected by bungee jumping and that the jumper should consult with a physician prior to jumping for more specific information regarding the medical risks;
- c. Weigh the jumper and mark the jumper's weight on the jumper;
- d. Control the movement of the jumper to the jump platform; and
- e. Assist in controlling the public.

63.6(8) Jumper restrictions.

- a. The minimum age for jumping is 18 years of age.
- b. A person who is visibly intoxicated or who is otherwise impaired shall not be allowed to jump.

63.6(9) Jumper registration. The operator shall ensure that a jumper provides the following information on the operator's registration form:

- a. The jumper's contact information, including name, address, and telephone number.
- b. The jumper's age and weight.

63.6(10) Equipment replacement.

- a. Jumping shall cease immediately when substandard equipment is identified.
- b. The operator shall obtain from the bungee cord manufacturer a written verification of the maximum number of jumps for which a particular cord may be used. The written verification shall be kept on site and shall be available to the commissioner.
- c. The operator shall keep a current, written record of each bungee cord used at the site. The bungee cord records shall be organized by permanent, unique identification number and shall include the number of jumps for each cord by date. The bungee cord records shall be available to the commissioner.

63.6(11) Jump space and jump area.

- a. Persons other than a jumper and objects other than the jumper's equipment shall not be in the jump space at any time during jump operations.
- b. Persons other than site personnel and objects other than air bags and similar safety devices shall not be in the jump area at any time during jump operations.
- c. The jump space and jump area shall be identical to the jump space and jump area that the commissioner approved.
- d. The preparation area shall be separate from the jump area.

These rules are intended to implement Iowa Code chapter 88A.

ARC 1989C**NATURAL RESOURCES DEPARTMENT[561]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 461A.81, the Department of Natural Resources hereby gives Notice of Intended Action to adopt new Chapter 13, “State Lands Volunteer Program,” Iowa Administrative Code.

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The purpose of this new chapter is to implement the State Lands Volunteer Program created in 2014 by the passage of 2014 Iowa Acts, House File 2397 (found in new Iowa Code section 461A.81), signed by Governor Branstad on March 26, 2014. The Department proposes to establish a registration program for select nonprofit organizations that, along with individuals providing services on behalf of those nonprofits, will be eligible for liability protections under Iowa Code chapter 669 (Iowa Tort Claims Act) while performing qualifying volunteer services. The significance of this new program is that qualifying “volunteer” services, triggering volunteer liability protection under Iowa Code section 669.24, will include more than the manual labor assistance activities traditionally associated with the term “volunteer” (all of which are still covered). For example, in addition to more routine activities, like trail work, litter pickup, mowing, and other maintenance-type activities, concession operations in which the net proceeds are donated to the state park and park fundraising events may now be considered “volunteer” activities.

Any interested person may submit written suggestions or comments on the proposed rules on or before June 2, 2015. Such written materials should be submitted to Sherry Arntzen, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)725-8201; or e-mail to Sherry.Arntzen@dnr.iowa.gov. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)725-8486 or at the State Parks Bureau office on the fourth floor of the Wallace State Office Building in Des Moines, Iowa.

There will be a public hearing on June 2, 2015, at 10 a.m. at the Wallace State Office Building, Conference Room 4E, 502 E. Ninth Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed rules.

Any person who plans to attend the public hearing and who has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 461A.81.

The following amendment is proposed.

Adopt the following **new** 561—Chapter 13:

CHAPTER 13
STATE LANDS VOLUNTEER PROGRAM

561—13.1(461A) Definitions.

“Department” means the department of natural resources.

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

“Volunteer” means an organization incorporated under Iowa Code chapter 504 as a nonprofit organization, or an individual providing services on behalf of the nonprofit organization, that provides volunteer services for the benefit of lands under the jurisdiction of the department and that registers as a volunteer under this chapter. A volunteer may include a friends group or organization as defined in rule 571—14.1(461A). A volunteer shall not include an organization or individual that operates a concession operation, as defined in rule 571—14.1(461A), unless that concession operation remits all receipts and returns all net proceeds after qualifying expenses from such operations to the department for the benefit of the state parks system, or otherwise procures goods or services for the benefit of the department. Qualifying volunteer services are, unless otherwise specified, limited to activities undertaken on lands under the jurisdiction of the department to benefit such lands. Volunteer services do not include any administrative functions of a nonprofit organization registered under this program.

561—13.2(461A) Registration. Organizations seeking to provide services under this program for the benefit of lands under the jurisdiction of the department must register with the department. The department shall make forms available for such application. The department may request additional information as part of its review. Registration must be renewed every other year or as soon as substantial

NATURAL RESOURCES DEPARTMENT[561](cont'd)

changes are planned to the approved services contained in the authorization letter referenced in this chapter, whichever occurs first.

561—13.3(461A) Review. The department will review requests for registration to determine whether the registrant will be designated a volunteer under this program. The department shall evaluate the volunteer's ability to perform the services, the department's identified need for such services, and the department's ability to manage the volunteer's proposed activities, if applicable.

561—13.4(461A) Department decision. The department shall notify the registrant of its decision within a reasonable time period. If the department admits the registrant into the program, the department shall issue an authorization letter that shall be acknowledged by the registrant and shall state the terms of the registrant's participation in the program. The department may authorize the registrant's proposed activities in part and deny them in part. The department may provide reasons for any program denials.

561—13.5(461A) Program benefit. Volunteers providing services consistent with this program shall be afforded liability protection consistent with Iowa Code section 669.24, provided the volunteers are complying with the terms of the authorization letter issued by the department.

561—13.6(461A) Limitation. Nothing in these rules shall expand liability protection afforded volunteers beyond what is authorized by Iowa Code section 669.24. Failure to comply with department directives or policies, including those that may be described in the authorization letter and any amendments, may negate this liability protection. Nothing in these rules shall require registered volunteers to secure insurance for activities approved in the department's authorization letter.

These rules are intended to implement Iowa Code section 461A.81.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%
May 1, 2015 — May 31, 2015	4.00%

ARC 1992C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed

Pursuant to the authority of Iowa Code section 123.21, the Alcoholic Beverages Division hereby amends Chapter 16, "Trade Practices," Iowa Administrative Code.

This amendment strikes Chapter 16 as it currently appears, reorganizes the existing rules in Chapter 16 into Parts I to VII, and renumbers the rules accordingly. The restructuring is similar to the arrangement of the federal regulations that relate to transactions between industry members and retailers. Language contained within each rule remains the same; however, when another rule is cross-referenced within a rule, the new rule number is used for the cross reference. Subsequent rule making will amend obsolete dates and rules not addressed in this rule making.

Additionally, the following changes are incorporated:

- A preamble is added to Chapter 16 to identify the purpose and the persons governed by the chapter.
- A preamble is added to Part I introducing definitions.
- Definitions within Part I are arranged in alphabetical order, subrule references for each definition are removed, and the format for each definition is standardized.
- A preamble is added to Parts II, III, IV, V, and VI to identify the purpose and the persons governed by the rules within each part.
- Rules in Parts II, III, IV, V, VI, and VII are reserved to provide for future expansion.
- The rescinded subrule in renumbered rule 185—16.41(123), contained within Part III, is reserved.
- A preamble is added to Part VII concerning violations of Chapter 16.

The amendment organizes and renumbers the rules in Chapter 16 as follows:

New Rule Number	Rule Catchwords	Former Rule Number
	PART I	
16.1	Definitions.	16.1
	PART II	
16.2	Product displays.	16.3
16.3	Retailer advertising utensils, consumer souvenirs, wearing apparel.	16.13
16.4	Wine lists.	16.12
16.5	Glassware.	16.6
16.6	Tapping accessories and coil cleaning service.	16.11
16.7	Tastings, samplings and trade spending.	16.10
16.8, 16.9	Reserved.	
16.10	Discounts prohibited.	16.23
16.11	Combination packaging.	16.9
16.12	Coupons.	16.14
16.13	Advertising.	16.5
16.14	Stocking and product rotation.	16.15
16.15	Sponsorships and special events.	16.17
16.16	Participation in seminars and retail association activities.	16.16
16.17	Reserved.	
16.18	Record keeping.	16.20

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

New Rule Number	Rule Catchwords	Former Rule Number
16.19 to 16.39	Reserved.	
	PART III	
16.40	Equipment, furnishings, fixtures.	16.4
16.41	Interest in a retail establishment.	16.2
16.42	Free warehousing prohibited.	16.21
16.43	Extension of credit and prepaid accounts.	16.7
16.44	Quota sales, tie-in sales.	16.8
16.45 to 16.59	Reserved.	
	PART IV	
16.60	Implied or express contracts prohibited.	16.22
16.61 to 16.74	Reserved.	
	PART V	
16.75	Commercial bribery.	16.18
16.76 to 16.89	Reserved.	
	PART VI	
16.90	Consignment sales.	16.19
16.91 to 16.104	Reserved.	
	PART VII	
16.105	Industry member, retailer—subject to penalties.	16.24
16.106	Contested case—burden.	16.25
16.107 to 16.119	Reserved.	

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 18, 2015, as **ARC 1915C**. The Division received no comments during the public comment period. The adopted amendment is identical to the amendment published under Notice of Intended Action.

The rules do not provide for waivers in specified situations. The rules are subject to waiver under the Division's general waiver provisions contained in 185—Chapter 19.

The Alcoholic Beverages Commission adopted this amendment on April 24, 2015.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 123.

This amendment shall become effective June 17, 2015.

The following amendment is adopted.

Amend 185—Chapter 16 as follows:

CHAPTER 16
TRADE PRACTICES

185—16.1(123) Definitions.

16.1(1) ~~Industry member means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.~~

16.1(2) ~~Retailer means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.~~

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.1(3)~~ Equipment includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

~~16.1(4)~~ Furnishings include, but are not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 16.6(123).)

~~16.1(5)~~ Fixtures include, but are not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

~~16.1(6)~~ Exclusion, in whole or in part, of a competitor’s products includes, but is not limited to, any, some or all of the following factors:

- ~~a.~~— Position and location of alcoholic beverages products sold during special event.
- ~~b.~~— Alcoholic beverages products sold prior to allegation of violation in retail establishment.
- ~~c.~~— Industry member and retailer objective intent.
- ~~d.~~— Industry member and retailer connection with charitable or civic sponsor of special event.
- ~~e.~~— Alcoholic beverages products sold during the event.
- ~~f.~~— Sales price and discounts on alcoholic beverages products sold during the event.
- ~~g.~~— Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

~~16.1(7)~~ Cost adjustment factor. The division shall annually adjust the dollar limitations in 16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in 16.13(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in 16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed in this subrule for calendar year 1992 are as follows:

~~16.3(123)~~ Product displays: \$160.

~~16.13(123)~~ Retailer advertising utensils: \$78.

~~16.16(123)~~ Participation in retail association activities: \$160.

~~16.1(8)~~ Furnishings, fixtures and equipment do not include the items identified in 16.3(123), 16.5(5), 16.5(6), 16.6(123), 16.10(123), 16.11(123), 16.12(123), or 16.13(5).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.2(123) Interest in a retail establishment.

~~16.2(1)~~ An industry member is prohibited, directly or indirectly, from:

- ~~a.~~— Acquiring or holding a partial or complete ownership interest in a retail establishment.
- ~~b.~~— Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.
- ~~c.~~— Acquiring a mortgage on the real or personal property owned by the retailer.
- ~~d.~~— Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.
- ~~e.~~— Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

~~— 16.2(2) to 16.2(4)~~ Rescinded IAB 2/16/05, effective 3/23/05.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.3(123) Product displays. An industry member is prohibited, directly or indirectly, from renting, leasing or buying display space from a retailer, paying a retailer to set up a display, giving a

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

special price on the products featured in the display or other products sold by the industry member, or providing free merchandise to a retailer in return for a display.

~~16.3(1)~~ An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

~~16.3(2)~~ The total value of all product displays per brand per calendar year may not exceed \$155. The value of the product display is the industry member's original cost of the item.

~~16.3(3)~~ Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$155. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$155.

~~This rule is intended to implement Iowa Code section 123.186.~~

~~185—16.4(123) Equipment, furnishings, fixtures.~~ An industry member is prohibited from giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

~~16.4(1)~~ An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

~~16.4(2)~~ Reserved.

~~This rule is intended to implement Iowa Code sections 123.45 and 123.186.~~

~~185—16.5(123) Advertising.~~ An industry member is prohibited from paying a retailer, directly or indirectly, to advertise the industry member's alcoholic beverages products.

~~16.5(1)~~ An industry member is prohibited, directly or indirectly, from sharing the cost of an advertisement with a retailer.

~~16.5(2)~~ An industry member is prohibited from purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

~~16.5(3)~~ An industry member may furnish a billboard or "spectacular" sign to a retailer. The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or the industry member's alcoholic beverages products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment.

~~If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities, menu board) other than mere advertising, an industry member may furnish a billboard or "spectacular" sign to a retailer provided:~~

~~a.—The sign is not on a premises covered by a license or permit;~~

~~b.—The sign is not owned by a retail licensee or permittee;~~

~~c.—The retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign or advertising thereon;~~

~~d.—The furnishing of the "spectacular" sign by an industry member shall not result in exclusion (which includes, but is not limited to, preferential treatment), in whole or in part, of a competitor's alcoholic beverages products in the retail establishment; and~~

~~e.—The billboard or "spectacular" sign does not contain or show an advertisement naming or advertising any retailer, or provide any other secondary utility value for the retailer.~~

~~16.5(4)~~ An industry member may purchase advertising in a publication owned by an incorporated nonprofit trade association of retail members. The publication shall be disseminated to the membership of the association on a regular basis. No revenue derived from the advertising shall be used for the benefit or use of any individual member.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

The fact that an industry member did not advertise in the publication shall not be used in any way by the membership jointly or severally to effect a restraint of trade of the brands carried by the industry member failing to advertise.

16.5(5) An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to retailers for use in retailers' advertisements.

16.5(6) An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.6(123) Glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.7(123) Extension of credit and prepaid accounts. An industry member is prohibited from extending credit on the sale of alcoholic liquor, beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

16.7(1) An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer. The industry member may not hold the money so deposited as "security" for future payment of a debt. The industry member must transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment. An industry member is not required to establish separate escrow accounts for prepaid accounts; however, the industry member is responsible for accurately and honestly accounting for the funds so held. A retailer may withdraw the money placed in a prepaid account at any time. An industry member is prohibited from utilizing prepaid accounts to require a retailer to take and dispose of any quota of alcoholic liquor, wine or beer.

16.7(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

185—16.8(123) Quota sales, tie-in sales. An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.9(123) Combination packaging.~~ An industry member may package and distribute alcoholic liquor, wine or beer in combination with other nonalcoholic items or products provided that the items have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. The combination package must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. (Industry members who sell alcoholic liquor to the division must comply with the division's policies regarding combination packaging.)

This rule is intended to implement Iowa Code section 123.186.

~~185—16.10(123) Tastings, samplings and trade spending.~~ An industry member may conduct tastings in a retail establishment, provided that the tasting has the indicia of a tasting and is not a subterfuge to provide a retailer with free merchandise. An industry member may provide samples of alcoholic liquor, wine or beer to a retailer who has not previously purchased the brand from the industry member provided that the quantities of any brand of beer do not exceed 3 gallons; of wine, 3 liters; of alcoholic liquor, 500 milliliters. An industry member may engage in the practice of trade spending (purchasing one round of alcoholic or nonalcoholic beverages for patrons of an on-premises retail establishment). An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.11(123) Tapping accessories and coil cleaning service.~~ An industry member may sell tapping accessories, identified in rule 16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost. An industry member may sell, furnish or give wine and beer coil cleaning services to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.12(123) Wine lists.~~ An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.13(123) Retailer advertising utensils, consumer souvenirs, wearing apparel.~~ An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.

~~16.13(1)~~ The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.

~~16.13(2)~~ Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76.

~~16.13(3)~~ Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.

~~16.13(4)~~ The value of the retailer advertising utensil is the industry member's original cost of the item.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.13(5)~~ An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs may include such items as printed recipes, matches, bottle or can openers, corkscrews, shopping bags, pamphlets, leaflets, blotters, postcards, pens or pencils.

Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member's alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs.

Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.

~~16.13(6)~~ An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.14(123) Coupons.~~ An industry member may offer coupons to the public for mail-in rebates on alcoholic liquor, wine and beer. An industry member must offer all retailers the opportunity to participate in the coupon offering. A retailer may offer its own coupons to consumers, and the retailer's own coupons may be mail-in rebates or instant rebates at the cash register. An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.15(123) Stocking and product rotation.~~ An industry member may stock and rotate alcoholic liquor, wine or beer sold by the industry member. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer. An industry member may build product displays either at the time of delivery or at other times. An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.16(123) Participation in seminars and retail association activities.~~ An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

~~16.16(1)~~ An industry member may participate in retail association activities in the following manner:

a.—Display its products at a trade show or convention.

b.—Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.

c.—Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.

d.—Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.

e.—Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 per calendar year to any one retail association.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.16(2) Reserved.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.17(123) Sponsorships and special events.** An industry member is prohibited from giving or furnishing a retailer with money, services, or other things of value (including equipment, fixtures and furnishings) in conjunction with a community, civic, charitable or retailer-sponsored special event. An industry member may contribute to charitable, civic, religious, fraternal, educational and community activities; however, such contributions may not be given to influence a retailer in the selection of the alcoholic beverages products which may be sold at such activities and events. If the industry member's contribution influences, directly or indirectly, the retailer in selection of alcoholic beverages products, and a competitor's alcoholic beverages products are excluded in whole or in part from sale at the activity or event, the industry member and the retailer violate the provisions of this chapter.~~

~~This rule is intended to implement Iowa Code sections 123.45 and 123.186.~~

~~**185—16.18(123) Commercial bribery.** An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.19(123) Consignment sales.** An industry member is prohibited from selling alcoholic liquor, wine or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine or beer, until the product is sold by the retailer. An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.20(123) Record keeping.** Industry members are required to keep and maintain accurate records for a three year period regarding each of the items which may be provided to retailers in rules 16.3(123) (product displays), 16.6(123) (glassware), 16.10(123) (tastings, samplings, and trade spending), 16.13(123) (retailer advertising utensils, consumer souvenirs, wearing apparel), 16.16(123) (participation in seminars and retail association activities), and 16.17(123) (sponsorships and special events). Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records shall state the following: the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member's laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.21(123) Free warehousing prohibited.** An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~185—16.22(123) Implied or express contracts prohibited.~~ An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.23(123) Discounts prohibited.~~ An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area. An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

~~185—16.24(123) Industry member, retailer—subject to penalties.~~ An industry member or a retailer who commits, permits or assents to the prohibitions in this chapter shall be subject to administrative penalties including administrative fines, suspension or revocation of the certificate of compliance, license or permit.

This rule is intended to implement Iowa Code section 123.45.

~~185—16.25(123) Contested case—burden.~~ In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

The rules in this chapter, adopted pursuant to Iowa Code section 123.186, apply to transactions between industry members, trade buyers and retailers. The rules specify practices considered to be fair and allowable as well as practices deemed to be unfair or inducements. This chapter does not exempt any industry member, trade buyer or retailer from the requirements of any federal law or regulation.

PART I

As used in this chapter, the words, terms and phrases defined in this part shall apply, unless a different meaning is clearly indicated by the context.

185—16.1(123) Definitions.

"Cost adjustment factor." The division shall annually adjust the dollar limitations in rule 185—16.2(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in rule 185—16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in rule 185—16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed herein for calendar year 1992 are as follows:

1. Rule 185—16.2(123) Product displays: \$160.
2. Rule 185—16.3(123) Retailer advertising utensils: \$78.
3. Rule 185—16.16(123) Participation in retail association activities: \$160.

"Equipment" includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, "party wagons," dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and "picnic" pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

"Exclusion," in whole or in part, of a competitor's products includes, but is not limited to, any, some or all of the following factors:

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

1. Position and location of alcoholic beverages products sold during special event.
2. Alcoholic beverages products sold prior to allegation of violation in retail establishment.
3. Industry member and retailer objective intent.
4. Industry member and retailer connection with charitable or civic sponsor of special event.
5. Alcoholic beverages products sold during the event.
6. Sales price and discounts on alcoholic beverages products sold during the event.
7. Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

"Fixtures" includes, but is not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

"Furnishings" includes, but is not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 185—16.5(123).)

"Furnishings, fixtures and equipment" does not include the items identified in rule 185—16.2(123), subrule 16.3(5), rule 185—16.4(123), rule 185—16.5(123), rule 185—16.6(123), rule 185—16.7(123), subrule 16.13(5), or subrule 16.13(6).

"Industry member" means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.

"Retailer" means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

PART II

The rules in this part specify industry member practices that are allowed, under the conditions and within the limitations prescribed. The rules apply to transactions between industry members and retailers.

185—16.2(123) Product displays. An industry member is prohibited, directly or indirectly, from renting, leasing or buying display space from a retailer, paying a retailer to set up a display, giving a special price on the products featured in the display or other products sold by the industry member, or providing free merchandise to a retailer in return for a display.

16.2(1) An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

16.2(2) The total value of all product displays per brand per calendar year may not exceed \$155. The value of the product display is the industry member's original cost of the item.

16.2(3) Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$155. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$155.

This rule is intended to implement Iowa Code section 123.186.

185—16.3(123) Retailer advertising utensils, consumer souvenirs, wearing apparel. An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.

16.3(1) The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.

16.3(2) Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76.

16.3(3) Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.

16.3(4) The value of the retailer advertising utensil is the industry member's original cost of the item.

16.3(5) An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs may include such items as printed recipes, matches, bottle or can openers, corkscrews, shopping bags, pamphlets, leaflets, blotters, postcards, pens or pencils.

Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member's alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs.

Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.

16.3(6) An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.4(123) Wine lists. An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.5(123) Glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.6(123) Tapping accessories and coil cleaning service. An industry member may sell tapping accessories, identified in rule 185—16.1(123), and carbon dioxide to a retailer at not less than the industry

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member's laid-in cost. An industry member may sell, furnish or give wine and beer coil cleaning services to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.7(123) Tastings, samplings and trade spending. An industry member may conduct tastings in a retail establishment, provided that the tasting has the indicia of a tasting and is not a subterfuge to provide a retailer with free merchandise. An industry member may provide samples of alcoholic liquor, wine or beer to a retailer who has not previously purchased the brand from the industry member provided that the quantities of any brand of beer do not exceed 3 gallons; of wine, 3 liters; of alcoholic liquor, 500 milliliters. An industry member may engage in the practice of trade spending (purchasing one round of alcoholic or nonalcoholic beverages for patrons of an on-premises retail establishment). An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.

This rule is intended to implement Iowa Code section 123.186.

185—16.8 and 16.9 Reserved.

185—16.10(123) Discounts prohibited. An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area. An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

185—16.11(123) Combination packaging. An industry member may package and distribute alcoholic liquor, wine or beer in combination with other nonalcoholic items or products provided that the items have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. The combination package must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. (Industry members who sell alcoholic liquor to the division must comply with the division's policies regarding combination packaging.)

This rule is intended to implement Iowa Code section 123.186.

185—16.12(123) Coupons. An industry member may offer coupons to the public for mail-in rebates on alcoholic liquor, wine and beer. An industry member must offer all retailers the opportunity to participate in the coupon offering. A retailer may offer its own coupons to consumers, and the retailer's own coupons may be mail-in rebates or instant rebates at the cash register. An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.

This rule is intended to implement Iowa Code section 123.186.

185—16.13(123) Advertising. An industry member is prohibited from paying a retailer, directly or indirectly, to advertise the industry member's alcoholic beverages products.

16.13(1) An industry member is prohibited, directly or indirectly, from sharing the cost of an advertisement with a retailer.

16.13(2) An industry member is prohibited from purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

16.13(3) An industry member may furnish a billboard or "spectacular" sign to a retailer. The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or the industry member's alcoholic beverages products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment.

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If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities, menu board) other than mere advertising, an industry member may furnish a billboard or "spectacular" sign to a retailer provided:

- a. The sign is not on a premises covered by a license or permit;
- b. The sign is not owned by a retail licensee or permittee;
- c. The retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign or advertising thereon;
- d. The furnishing of the "spectacular" sign by an industry member shall not result in exclusion (which includes, but is not limited to, preferential treatment), in whole or in part, of a competitor's alcoholic beverages products in the retail establishment; and
- e. The billboard or "spectacular" sign does not contain or show an advertisement naming or advertising any retailer, or provide any other secondary utility value for the retailer.

16.13(4) An industry member may purchase advertising in a publication owned by an incorporated nonprofit trade association of retail members. The publication shall be disseminated to the membership of the association on a regular basis. No revenue derived from the advertising shall be used for the benefit or use of any individual member.

The fact that an industry member did not advertise in the publication shall not be used in any way by the membership jointly or severally to effect a restraint of trade of the brands carried by the industry member failing to advertise.

16.13(5) An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to retailers for use in retailers' advertisements.

16.13(6) An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.14(123) Stocking and product rotation. An industry member may stock and rotate alcoholic liquor, wine or beer sold by the industry member. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer. An industry member may build product displays either at the time of delivery or at other times. An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

185—16.15(123) Sponsorships and special events. An industry member is prohibited from giving or furnishing a retailer with money, services, or other things of value (including equipment, fixtures and furnishings) in conjunction with a community, civic, charitable or retailer-sponsored special event. An industry member may contribute to charitable, civic, religious, fraternal, educational and community activities; however, such contributions may not be given to influence a retailer in the selection of the alcoholic beverages products which may be sold at such activities and events. If the industry member's contribution influences, directly or indirectly, the retailer in selection of alcoholic beverages products, and a competitor's alcoholic beverages products are excluded in whole or in part from sale at the activity or event, the industry member and the retailer violate the provisions of this chapter.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.16(123) Participation in seminars and retail association activities. An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is

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prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

16.16(1) An industry member may participate in retail association activities in the following manner:

a. Display its products at a trade show or convention.

b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.

c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.

d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.

e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 per calendar year to any one retail association.

16.16(2) Reserved.

This rule is intended to implement Iowa Code section 123.186.

185—16.17 Reserved.

185—16.18(123) Record keeping. Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in rules 185—16.2(123) (product displays), 185—16.3(123) (retailer advertising utensils, consumer souvenirs, wearing apparel), 185—16.5(123) (glassware), 185—16.7(123) (tastings, samplings, and trade spending), 185—16.15(123) (sponsorships and special events), and 185—16.16(123) (participation in seminars and retail association activities). Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records shall state the following: the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member's laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.

This rule is intended to implement Iowa Code section 123.186.

185—16.19 to 16.39 Reserved.

PART III

The rules in this part specify industry member practices that are a means to induce a retailer and that are prohibited. The rules apply to transactions between industry members and retailers.

185—16.40(123) Equipment, furnishings, fixtures. An industry member is prohibited from giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

16.40(1) An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

16.40(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.41(123) Interest in a retail establishment.

16.41(1) An industry member is prohibited, directly or indirectly, from:

a. Acquiring or holding a partial or complete ownership interest in a retail establishment.

b. Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.

c. Acquiring a mortgage on the real or personal property owned by the retailer.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

d. Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.

e. Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

16.41(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.42(123) Free warehousing prohibited. An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.43(123) Extension of credit and prepaid accounts. An industry member is prohibited from extending credit on the sale of alcoholic liquor, beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

16.43(1) An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer. The industry member may not hold the money so deposited as "security" for future payment of a debt. The industry member must transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment. An industry member is not required to establish separate escrow accounts for prepaid accounts; however, the industry member is responsible for accurately and honestly accounting for the funds so held. A retailer may withdraw the money placed in a prepaid account at any time. An industry member is prohibited from utilizing prepaid accounts to require a retailer to take and dispose of any quota of alcoholic liquor, wine or beer.

16.43(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

185—16.44(123) Quota sales, tie-in sales. An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.45 to 16.59 Reserved.

PART IV

The rule in this part specifies that exclusive outlet arrangements with retailers are prohibited. The rule applies to transactions between industry members and retailers.

185—16.60(123) Implied or express contracts prohibited. An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.

This rule is intended to implement Iowa Code section 123.186.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

185—16.61 to 16.74 Reserved.

PART V

The rule in this part specifies industry member practices that are a means to induce a trade buyer and that are prohibited. The rule applies to transactions between industry members and employees, officers, or representatives of trade buyers.

185—16.75(123) Commercial bribery. An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.

This rule is intended to implement Iowa Code section 123.186.

185—16.76 to 16.89 Reserved.

PART VI

The rule in this part specifies that consignment sales arrangements are prohibited. The rule applies to transactions between industry members and trade buyers.

185—16.90(123) Consignment sales. An industry member is prohibited from selling alcoholic liquor, wine or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine or beer, until the product is sold by the retailer. An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.

This rule is intended to implement Iowa Code section 123.186.

185—16.91 to 16.104 Reserved.

PART VII

The rules in this part govern the penalties for violations of rules within this chapter.

185—16.105(123) Industry member, retailer—subject to penalties. An industry member or a retailer who commits, permits or assents to the prohibitions in this chapter shall be subject to administrative penalties including administrative fines, suspension or revocation of the certificate of compliance, license or permit.

This rule is intended to implement Iowa Code section 123.45.

185—16.106(123) Contested case—burden. In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

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185—16.107 to 16.119 Reserved.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/15.

ARC 1988C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission (EPC) hereby amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

This rule making adopts by reference the updated and amended Surface Water Classification document which lists the use designations for Iowa streams. Stream redesignations are based upon the Department of Natural Resources (DNR) conducting a Use Assessment and Use Attainability Analysis (UA/UAA), which is a step-by-step process to gather site-specific field data on stream features and uses. The DNR then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate. The listed amendments are the recommended designated use classifications for stream segments that have undergone the UA/UAA process.

The Surface Water Classification changes are summarized as follows:

1. Class A1 Stream Segments

	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Blue Creek (Benton/Linn Counties)	508	Iowa-Cedar	5.5	NA
2	Camp Creek (Calhoun County)	1416	Des Moines	8.3	NA
3	Dye Creek (Story County)	1461	Skunk	1.0	NA
4	East Indian Creek (Story County)	1460	Skunk	8.2	NA
5	Price Creek (Iowa County)	NA	Iowa-Cedar	0.3	NA
6	South English River (Poweshiek/Mahaska/Keokuk/Washington Counties)	1453	Iowa-Cedar	10.6	NA
7	West Fork Camp Creek (Calhoun County)	1415	Des Moines	7.0	NA
8	White Fox Creek (Wright/Hamilton Counties)	1466	Des Moines	12.1	NA

2. Class A1, B(WW-1) Stream Segments

	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	B(WW-1) Aquatic Stream Segment Length (miles)
1	Saylor Creek (Polk County)	1466	Des Moines	<0.1	<0.1

3. Class A1, B(WW-2) Stream Segments

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	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
1	Cub Creek (Poweshiek County)	1427	Iowa-Cedar	<0.1	<0.1
2	Drainage Ditch 29 (Fonda, City of, STP) (Pocahontas County)	1419	Des Moines	0.5	0.5
3	Dry Run (O'Brien County)	1473	Western	8.8	8.8
4	East Branch Blue Creek (Linn County)	1499	Iowa-Cedar	4.0	4.0
5	Fox Creek (Dallas County)	1457	Des Moines	2.4	2.4
6	Unnamed Creek (Firestone Agricultural Tire Company) (Polk County)	1485	Des Moines	0.9	0.9
7	Unnamed Creek (Lanesboro, City of, STP) (Carroll County)	1413	Des Moines	0.1	0.1
8	Unnamed Creek (Pella Corp.) (Marion County)	1422	Des Moines	<0.1	<0.1

4. Class A2 Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Chihaks Creek (Howard County)	NA	Northeastern	1.1	NA
2	Deep River (Poweshiek/Iowa Counties)	1429	Iowa-Cedar	7.5	NA

5. Class A2, B(WW-2) Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
1	Brushy Creek (Carroll/Audubon/Guthrie Counties)	1071	Des Moines	4.0	4.0
2	Cub Creek (Poweshiek County)	1426	Iowa-Cedar	3.3	3.3
3	Drainage Ditch (Adair, City of, STP) (Adair County)	1495	Des Moines	0.2	0.2
4	Drainage Ditch 2 (I35-105 Interchange Commercial District) (Worth County)	1409	Iowa-Cedar	9.4	9.4
5	East Branch Blue Creek (Linn County)	1500	Iowa-Cedar	4.2	4.2
6	Granger Creek (Dubuque County)	1476	Northeastern	0.5	0.5
7	Little Creek (Iowa/Keokuk Counties)	1455	Iowa-Cedar	6.1	6.1
8	Middle English River (Iowa County)	1452	Iowa-Cedar	10.2	2.8
9	Painter Creek (Madison/Warren Counties)	1420	Des Moines	7.9	7.9
10	Soap Creek (Lee County)	949	Skunk	0.9	0.9
11	South English River (Poweshiek/Mahaska/Keokuk/Washington Counties)	1454	Iowa-Cedar	21.8	6.1
12	Spring Creek (Des Moines County)	NA	Iowa-Cedar	3.8	3.8

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	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
13	Unnamed Creek (Country Living Court, LLC) (Story County)	1462	Skunk	0.2	0.2
14	Unnamed Creek (Deep River, City of, WWTP) (Poweshiek County)	1428	Iowa-Cedar	1.5	1.5
15	Unnamed Creek (Earling, City of, STP) (Shelby County)	1498	Western	<0.1	<0.1
16	Unnamed Creek (East Iowa Bible Camp) (Iowa County)	1450	Iowa-Cedar	2.9	2.9
17	Unnamed Creek (Fonda, City of, WWTP) (Pocahontas County)	1417	Des Moines	0.2	0.2
18	Unnamed Creek (Kwik Star #303) (Poweshiek County)	1425	Iowa-Cedar	1.9	1.9
19	Unnamed Creek (Lanesboro, City of, STP) (Carroll County)	1414	Des Moines	1.2	1.2
20	Unnamed Creek (Pella Corp.) (Marion County)	1421	Des Moines	0.5	0.5
21	Unnamed Creek (Primghar, City of, STP) (O'Brien County)	1472	Western	<0.1	<0.1
22	Unnamed Creek (Webster City, City of, WWTP) (Hamilton County)	1501	Des Moines	<0.1	<0.1
23	Unnamed Creek (Wendling Quarries – Robins Facility) (Linn County)	1479	Iowa-Cedar	0.3	0.3
24	Unnamed Creek #1 (Des Moines International Airport Outfall #2) (Polk County)	1490	Des Moines	0.8	0.8
25	Unnamed Creek #1 (New Albin, City of, STP) (Allamakee County)	979	Northeastern	0.5	0.5
26	Unnamed Creek #2 (Adair, City of, STP) (Guthrie County)	1496	Des Moines	1.4	1.4
27	Unnamed Creek #2 (Atkins, City of, WTF) (Benton County)	1502	Iowa-Cedar	1.2	1.2
28	Unnamed Creek #2 (Des Moines International Airport Outfall #2) (Polk County)	1491	Des Moines	0.2	0.2
29	Unnamed Creek #2 (John Deere Engine Works) (Black Hawk County)	1481	Iowa-Cedar	<0.1	<0.1
30	Unnamed Creek #2 (Neal Smith National Wildlife Refuge) (Jasper County)	1516	Des Moines	2.0	2.0
31	Unnamed Creek #3 (Adair, City of, STP) (Adair/Guthrie Counties)	1497	Des Moines	1.9	1.9
32	Unnamed Creek #3 (Macksburg, City of, STP) (Madison County)	1489	Southern	0.3	0.3
33	Unnamed Creek #4 (Des Moines International Airport Outfall #2) (Polk County)	1493	Des Moines	<0.1	<0.1
34	West Fork Big Creek (Ringgold County)	1471	Southern	10.2	10.2
35	West Jackson Creek (Wayne County)	1487	Southern	2.5	2.5
36	White Fox Creek (Wright/Hamilton Counties)	1467	Des Moines	15.8	15.8

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6. Class A2, B(WW-3) Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-3) Aquatic Stream Segment Length (miles)
1	Rock Creek (Jefferson/Wapello Counties)	NA	Skunk	12.0	8.5
2	Unnamed Creek (Iowa DOT – 21, 22 & I-80 Rest Stop) (Dallas County)	1456	Des Moines	0.4	0.4
3	Unnamed Creek (New Hartford, City of, WWTP) (Butler County)	1470	Iowa-Cedar	0.1	0.1
4	Unnamed Creek #1 (West Point, City of, STP) (Lee County)	1284	Skunk	0.9	0.9

7. Class A3 Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Buttermilk Creek (Wright County)	1465	Des Moines	0.5	NA
2	Dry Creek (Linn County)	1480	Iowa-Cedar	8.2	NA
3	West Branch Floyd River (Plymouth/Sioux Counties)	1401	Western	4.4	NA
4	West Branch Floyd River (Plymouth/Sioux Counties)	1403	Western	3.4	NA
5	West Branch Floyd River (Plymouth/Sioux Counties)	1405	Western	2.7	NA

8. Class A3, B(WW-2) Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
1	Blackhawk Creek (Scott County)	833	Northeastern	5.5	5.5
2	Coon Creek (Tama County)	1468	Iowa-Cedar	0.5	0.5
3	Gypsum Creek (Webster County)	1463	Des Moines	1.3	1.3
4	Soap Creek (Lee County)	948	Skunk	2.8	2.8
5	Unnamed Creek (aka, 7th Ward Ditch) (Polk County)	152	Des Moines	5.2	5.2
6	Unnamed Creek (Clow Valve) (Mahaska County)	1424	Skunk	1.0	1.0
7	Unnamed Creek (Corn LP) (Wright County)	1464	Des Moines	0.3	0.3
8	Unnamed Creek (Des Moines International Airport Outfall #3) (Polk County)	1459	Des Moines	1.0	1.0
9	Unnamed Creek (Nevada, City of, WWTP) (Story County)	1412	Skunk	<0.1	<0.1
10	Unnamed Creek (Pella Corp.) (Marion County)	1423	Des Moines	0.3	0.3

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	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
11	Unnamed Creek (Tama Paperboard) (Tama County)	1474	Iowa-Cedar	0.7	0.7
12	Unnamed Creek (University of Northern Iowa) (Black Hawk County)	1469	Iowa-Cedar	0.2	0.2
13	Unnamed Creek #2 (Atkins, City of, WTF) (Benton County)	1503	Iowa-Cedar	0.3	0.3
14	Unnamed Creek #3 (John Deere Engine Works) (Black Hawk County)	1482	Iowa-Cedar	1.2	1.2
15	Unnamed Creek #4 (John Deere Engine Works) (Black Hawk County)	1484	Iowa-Cedar	0.5	0.5
16	Yeader Creek (Polk County)	1458	Des Moines	0.5	0.5

9. Administrative Name Changes

	Stream Name	UAA ID	Basin	Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Chialk Creek to Chihaks Creek (Howard County)	1268	Northeastern	NA	NA
2	West Indian Creek (Story County)	1002	Skunk	NA	NA

10. Omitted Stream Segments*

	Stream Name	UAA ID	Basin	Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Middle Branch Boone River (Wright/Hancock Counties)	NA	Des Moines	11.5	4.0
2	Unnamed Creek #1 (Calmar, City of, STP) (Winneschek County)	NA	Northeastern	1.4	1.4

*Stream segments that were previously approved by EPC but omitted from the Surface Water Classification document.

The stream descriptions provided above are designed to provide clear notice to the public and may have nonsubstantive differences from the Surface Water Classification document. The Surface Water Classification document also contains nonsubstantive revisions to previously adopted stream designations to correct typographical or descriptive errors. All designations conform to the previously approved use designations, as amended by the Commission.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 18, 2015, as **ARC 1877C**. Two written comments on the proposed water quality standards revisions were received. A responsiveness summary has been prepared addressing the comments in terms of the issues involved. The comments did not result in changes to the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

Additional information on Iowa's Water Quality Standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/Rules.aspx>.

This amendment may have an impact upon small businesses.

A jobs impact statement (JIS) has been prepared for this rule making and is available upon request. The Department believes the rule making will not impact jobs since adoption of this amendment does not add to the burden or cost established by the 2006 rule making. Wastewater treatment facilities in Iowa, particularly local government-owned wastewater facilities, have been significantly impacted by

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

the 2006 water quality standard revisions. This amendment will not add to the burden or cost established by the 2006 rule making but does allow for the implementation of those prior requirements. Based upon the number of facilities impacted by this amendment, it is estimated that between \$46 million and \$64 million will be spent on facility upgrades. These upgrades will be implemented upon approval of the renewed NPDES permit for the facility. These figures may change based upon other factors, including inflation and varying construction costs.

It is important to understand that by revising the stream designations to reflect the appropriate uses, rather than the presumed uses, the amendment does not increase the potential compliance costs for any necessary facility upgrades in any way. When compared to the costs of implementation of the presumed uses, the cost of implementing the revised designations will always be the same or less.

Additional information on Iowa's water quality standards, including the JIS and detailed maps of the stream assessments, can be found on the Department's Web site at <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/DesignatedUses/UseAssessments.aspx>.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

This amendment will become effective June 17, 2015.

The following amendment is adopted.

Amend subrule 61.3(5) as follows:

61.3(5) Surface water classification. The department hereby incorporates by reference "Surface Water Classification," effective ~~December 22, 2010~~ June 17, 2015. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html> <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/Rules.aspx>.

[Filed 4/22/15, effective 6/17/15]

[Published 5/13/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/15.

ARC 1991C

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

This amendment revises paragraph 1.4(2)"b" to bring the public universities into compliance with the Home Base Iowa Initiative, as well as with the federal Veterans Access, Choice and Accountability Act of 2014 (Choice Act).

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1902C**. A comment period was established. No comments were received. The adopted amendment is identical to that published under Notice.

The Board of Regents adopted the amendment on April 23, 2015.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

After analysis and review of this rule making, a positive impact on jobs could exist. This rule will allow qualifying veterans, their spouses/domestic partners, and their children to be classified as residents for the purpose of receiving in-state tuition. This rule provides that veterans will be allowed to receive veterans' benefits. Therefore, veterans may be attracted to the state for postsecondary education and be drawn to remain in the state after graduation. This rule reduces tuition costs for veterans and their spouses and children and provides opportunities for postsecondary education, thus allowing veterans and their spouses and children the opportunity to obtain better paying jobs.

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective on June 17, 2015.

The following amendment is adopted.

REGENTS BOARD[681](cont'd)

Amend paragraph **1.4(2)“b”** as follows:

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and ~~dependent~~ children and spouses of a veteran or qualified military person for purposes of admission and undergraduate, graduate, or professional tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the ~~dependent~~ child or spouse/domestic partner of such person, is entitled to resident status for purposes of undergraduate, graduate, or professional tuition and mandatory fees. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. However, if the arrival of the person under orders is subsequent to the beginning of the term in which the ~~dependent child or spouse is first enrolled~~, nonresident fees will be charged in all cases for the ~~dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled.~~ If the qualified military person is transferred, deployed, or restationed while the person's spouse or dependent child is enrolled in an institution of higher education under the control of the board of regents, the spouse or dependent child shall continue to be classified as a resident under this subparagraph until the close of the fiscal year in which the spouse or dependent child is enrolled.

(2) A veteran who is ~~domiciled or moves to the state of Iowa and~~ who is eligible for benefits, or has exhausted benefits under ~~the federal Post-9/11 Veterans Educational Assistance Act of 2008,~~ any federal program authorizing veteran educational benefits is entitled to resident status for purposes of undergraduate, graduate, or professional tuition and mandatory fees. The ~~dependent~~ child or spouse/domestic partner of a veteran who meets these requirements is entitled to resident status for undergraduate, graduate, or professional tuition. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. However, if the arrival of the veteran in Iowa is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases for the dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled.

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the ~~dependent~~ child or spouse/domestic partner of such a person, is entitled to resident status. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. However, if the arrival of the person under orders is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases until the beginning of the next term in which the dependent child or spouse is enrolled. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

[Filed 4/24/15, effective 6/17/15]

[Published 5/13/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/15.

ARC 1986C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.252, the Iowa Department of Transportation, on April 15, 2015, adopted amendments to Chapter 130, "Signing Manual," and Chapter 131, "Signing on Primary Roads," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the February 18, 2015, Iowa Administrative Bulletin as **ARC 1885C**.

The amendments to Chapter 130 adopt the latest version of the Manual on Uniform Traffic Control Devices (MUTCD) and strike subrules that are no longer needed. The amendments retain the current exception to the 2009 MUTCD to allow the use of portable or part-time stop signs for school zones.

TRANSPORTATION DEPARTMENT[761](cont'd)

On May 14, 2012, the Federal Highway Administration adopted the 2009 MUTCD incorporating Revisions 1 and 2 as the national standard for traffic control devices. Revision 1 to the 2009 MUTCD restored language from the 2003 MUTCD which addressed the use of engineering judgment in the deviation from a standard. Revision 2 to the 2009 MUTCD eliminated the compliance dates for 46 items and extended or revised the dates for 4 items. The target compliance dates for 8 items that are deemed to be of critical safety importance will remain in effect. In addition, the revision added a new option statement in the manual that exempts existing historic street name signs within locally identified historic districts from the standards and guidance of Section 2D.43 regarding street sign color, letter size, and other design features, including retroreflectivity. The Federal Register notice dated May 14, 2012, may be reviewed on the MUTCD Web site at <http://mutcd.fhwa.dot.gov/res-notices.htm>.

Adoption and distribution of the new 2009 MUTCD with Revisions 1 and 2 will allow and, in fact, require the use of the most up-to-date standards for traffic control devices by cities, counties and the state.

Iowa Code section 321.249 requires that “[a]ll traffic-control devices provided for school zones shall conform to specifications included in the manual of traffic-control devices adopted by the department, except the provision prohibiting the use of portable or part-time stop signs.” For clarity and compliance with Iowa Code section 321.249, subrule 130.1(1) includes this exception in the rule.

The amendments to Chapter 131 allow for bridges on the primary highway to be named, clarify the criteria for naming routes, and add criteria for the naming of bridges. A provision is added to exclude the interstate highway system from being named as it is federally named for Dwight D. Eisenhower. The rule had required the applicant to furnish the signs, and the Department was responsible for the post, hardware and installation of the signs. With the increasing number of requests and to be consistent with other applicant-furnished signs, the Department has modified the rule to require the applicant to be responsible for all costs associated with the signs.

Changes are made in the size of the signs; they will be sized according to the proposed name and the letter size needed for the type of road or bridge along which the sign is installed.

Paragraph 131.6(1)“c” is stricken since the Department’s current practice is to sign for regularly scheduled activities, such as the state fair, an area fair, a county fair, 4-H exhibits, rodeos or auto races, when the other special event criteria are met. Other changes to Chapter 131 are technical and made for consistency and clarity throughout the chapter and to update the name of Form 810013.

These amendments have been changed since publication of the Notice of Intended Action. Within Item 8, the underscored phrase “or a bridge on the primary highway as a memorial bridge” has been moved to the end of the sentence for clarity. Within Item 13, subparagraphs 131.10(5)“b”(1) and 131.10(5)“b”(6), “primary road system” was changed to “primary highway system” for consistency.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.249, 321.252 and 321.253.

These amendments will become effective June 17, 2015.

Rule-making actions:

ITEM 1. Amend rule 761—130.1(321) as follows:

761—130.1(321) Manual. The “Manual on Uniform Traffic Control Devices” (MUTCD), 2009 Edition with Revision Numbers 1 and 2, dated ~~December 2009~~ May 2012, published by the U.S. Department of Transportation, Federal Highway Administration, shall constitute the manual and specifications for a uniform system of traffic control devices for use upon the highways of this state.

130.1(1) The department makes the following exception to the MUTCD for school zones: In Part 2, Section 2B.04, paragraph 12, of the MUTCD, Right-of-Way at Intersections, Standard, in lieu of the sentence “Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes,” the department adopts the following: “Portable or part-time STOP signs may be used only in the following situations:

TRANSPORTATION DEPARTMENT[761](cont'd)

“1. When necessary for emergency and temporary traffic control zone purposes, or

“2. In school zones at appropriate school crosswalks.”

~~130.1(2)~~ The department makes the following exception to the MUTCD, Section 1A.09, Engineering Study and Engineering Judgment: Add the following paragraphs to the Guidance section prior to paragraph 03:

“The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. While the MUTCD provides standards, guidance, and options for design and application of traffic control devices, the MUTCD should not be considered a substitute for engineering judgment.

“Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement.”

~~130.1(3)~~ The department makes the following exception to the MUTCD, Section 1A.13, Definitions of Headings, Words, and Phrases in this Manual, paragraph 01, definition of “Standard,” to read as shown:

“A. Standard—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb ‘shall’ is typically used. The verbs ‘should’ and ‘may’ are not used in Standard statements. Standard statements are sometimes modified by Options.”

~~130.1(4)~~ **130.1(2)** Copies of the MUTCD are available for examination at the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The MUTCD is also available on the Internet at <http://mutcd.fhwa.dot.gov>.

This rule is intended to implement Iowa Code sections 321.249 and 321.252.

ITEM 2. Amend **761—Chapter 131**, title, as follows:

SIGNING ON PRIMARY ROADS HIGHWAYS

ITEM 3. Amend paragraph **131.1(1)“e”** as follows:

e. The department shall determine which primary ~~road~~ highway destinations qualify for signing.

ITEM 4. Amend paragraph **131.1(2)“d”** as follows:

d. The department shall install and maintain the primary ~~road~~ highway destination signs. The department shall also furnish primary route markers and auxiliary signs for installation on the secondary road and install secondary road route markers and auxiliary signs furnished by the county on the primary route highway.

ITEM 5. Amend paragraph **131.4(3)“b”** as follows:

b. The appropriate district office shall forward Form 810013, “Application ~~and Agreement~~ for Installation of Camping Service Signs on Sign, Interstate Highways,” to the requesting camp owner.

ITEM 6. Amend paragraph **131.4(3)“e”** as follows:

e. When the appropriate district office has verified through inspection that the requirements are satisfied, the ~~engineer~~ district traffic technician shall complete and sign Form 810013, signifying approval of the application. A copy of the approved application shall be promptly forwarded to the applicant.

ITEM 7. Rescind paragraph **131.6(1)“c.”**

ITEM 8. Amend rule 761—131.10(321), introductory paragraph, as follows:

761—131.10(321) Signing for named routes and memorial bridges. This rule establishes the requirements and procedures for placing special signs along the primary ~~road system~~ highway for the purpose of designating a primary highway as a memorial highway, a historic trail, or a scenic trail or a bridge on the primary highway as a memorial bridge.

ITEM 9. Adopt the following **new** definition of “Memorial bridge” in subrule **131.10(1)**:

“*Memorial bridge*” means a bridge on the primary highway that has been given a name to commemorate a person, group, place or event of regional or national significance.

ITEM 10. Amend subrule 131.10(2) as follows:

131.10(2) General requirements.

TRANSPORTATION DEPARTMENT[761](cont'd)

a. Interstate highways have been designated as the “Dwight D. Eisenhower National System of Interstate and Defense Highways” and are not eligible for naming under these rules. However, bridges on interstate highways may be named.

~~a-~~ b. The named route shall be continuous with no breaks at the boundaries of political subdivisions. Each city and county through which a named route passes must approve provide the department a resolution in support of the route designation. This includes portions of the route off the primary road highway system. The memorial bridge shall be located on the primary highway, and the city and county in which the bridge is located must provide a resolution to the department in support of the bridge designation.

~~b-~~ c. A memorial highway should normally encompass the entire length of a primary route highway within the state. However, it is permissible to name a section of a primary route highway if the section is unique or independent by virtue of its design characteristics, such as a freeway, or its geographic location, such as a segment between two junctions. No more than one name shall be used for a bridge or for the same section of a route.

~~c-~~ d. Signs designating a named route or memorial bridge shall be furnished and paid for by the applicant including any replacements needed due to sign deterioration or damage. Failure to comply with this requirement may result in removal of all signs for the named route or memorial bridge along the primary road-system highway. The applicant is responsible for providing the department with the applicant’s current contact information. If the department is unable to make contact with the applicant when replacement signs are needed, it may be necessary to remove all signs for the named route or memorial bridge along the primary highway.

e. The applicant shall be responsible for the costs to install the signs, including the posts and hardware.

~~d-~~ f. A named route or memorial bridge shall not be given a name which could be considered discriminatory, biased or inappropriate.

ITEM 11. Amend subrule 131.10(3) as follows:

131.10(3) Memorial highway or bridge signing. Signing for memorial highways or bridges shall comply with ~~Section 2D-48~~ of the MUTCD as modified by the following:

a. Memorial highway or bridge signing off the primary highway right-of-way:

(1) Preferably, signing for a memorial highway or bridge should neither appear on or along the route primary highway nor be placed on bridges or other highway components. Signing is best accomplished by placing memorial plaques in rest areas, scenic overlooks or other appropriate locations off the right-of-way where parking is provided. These plaques shall be located in a manner that will not distract motor vehicle operators.

(2) Departmental approval is not needed for memorial highway or bridge signing placed off the right-of-way at locations not subject to control under Iowa Code chapter 306B or chapter 306C, division II.

b. Memorial highway or bridge signing within the primary highway right-of-way:

(1) If placement of memorial plaques off the right-of-way is not acceptable, the department may approve the installation of memorial highway or bridge signs within the right-of-way provided they are independent of other guide and directional signing and they do not adversely compromise the safety or efficiency of traffic flow.

(2) As determined by the department, a memorial highway or bridge sign within the right-of-way shall be no larger than 24 inches in width and 30 inches in height sized based on the size of lettering required for the traffic speed and type of highway being named. The color will be white lettering on brown background, and the design must be approved by the department. If the applicant prefers the sign include a design symbolic of the group or event, instead of the name, then the sign is limited in size to no larger than 24 inches in width and 30 inches in height. The color and design must be approved by the department.

(3) The number of memorial highway signs within the right-of-way shall be limited to one sign at each end of the memorial highway and one sign when entering the corporate limits of each city through

TRANSPORTATION DEPARTMENT[761](cont'd)

which the memorial highway passes. The number of memorial bridge signs will be limited to one sign for each direction of traffic.

ITEM 12. Amend subrule 131.10(4), introductory paragraph, as follows:

131.10(4) *Historic trail and scenic trail signing.* The department may approve the installation of historic trail and scenic trail signing within the primary highway right-of-way. Signing for historic trails and scenic trails shall comply with ~~Section 2D-49~~ of the MUTCD and the following:

ITEM 13. Amend subrule 131.10(5) as follows:

131.10(5) *Procedures.*

a. To request placement of signs designating a primary highway or bridge as a named route or memorial bridge, the applicant shall submit a formal written request to the appropriate district office.

b. The request shall contain the following:

(1) A detailed description of the proposed named route or memorial bridge, including those portions of the route off the primary ~~road~~ highway system.

(2) If the request is for a memorial highway or bridge, documentation supporting the significance of the person, group, place or event for which the memorial highway or bridge is named. Any person being honored must have provided extraordinary public service or some exemplary contribution to the public good or outstanding service to the nation, this state or the person's community and have a connection to the community where the highway or bridge is located. The person being honored must be deceased for one year.

(3) to (5) No change.

(6) Proposed locations for placement of the signs, including those locations off the primary ~~road~~ highway system.

(7) A signed ~~ordinance or~~ resolution from each city and county through which the named route passes or where the bridge is located, indicating approval support of the route designation.

c. No change.

d. The department shall install approved signs provided by the applicant (see paragraph ~~131.10(2) "e"~~ 131.10(2) "d") and provide routine maintenance when the signs are to be located within the primary highway right-of-way. The applicant shall be responsible for the installation costs for each of the signs.

e. The department is not responsible for the installation or maintenance of signs placed off the right-of-way or placed on the city or county highways.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/15.