State of Iowa

Iowa Administrative Code Supplement

Biweekly
January 18, 2017

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ADMINISTRATIVE CODE EDITOR

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

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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

Editor's telephone (515)281-3355 or (515)242-6873

Utilities Division[199]

Replace Analysis
Replace Chapter 45

Human Services Department[441]

Replace Chapter 86
Replace Chapter 93

Iowa Public Information Board[497]

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Replace Chapter 2
Insert Chapter 10

Environmental Protection Commission[567]

Replace Chapter 61

Public Employment Relations Board[621]

Replace Analysis
Replace Chapters 8 and 9
Replace Chapter 11

Revenue Department[701]

Replace Analysis
Replace Chapter 8

UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
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CHAPTER 45
ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

CHAPTER 45
ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

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

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

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

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

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

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

"Board" means the Iowa utilities board.

"Business day" means Monday through Friday, excluding state and federal holidays.

"Calendar day" means any day, including Saturdays, Sundays, and state and federal holidays.

"Certificate of completion" means the Certificate of Completion form that contains information about the interconnection equipment to be used, its installation, and local inspections.

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

"Disconnection device" means a lockable visual disconnect or other disconnection device capable of isolating, disconnecting, and de-energizing the residual voltage in a distributed generation facility.

"Distributed generation facility" means a qualifying facility, an AEP facility, or an energy storage facility.

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

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

"Electric meter" means a device used by an electric utility that measures and registers the integral of an electrical quantity with respect to time.

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

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

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

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

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

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

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

"Interconnection study" is any study described in rule 199—45.11(476).

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

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

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

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

"Nationally recognized testing laboratory" or *"NRTL"* means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration's (OSHA) regulations. See 29 CFR 1910.7 as amended through February 22, 2017. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

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

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

"Primary line" means an electric distribution system line operating at greater than 600 volts.

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

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

"Review order position" means, for each distribution circuit or line section, the order of a completed interconnection request relative to all other pending completed interconnection requests on that distribution circuit or line section. The review order position is established by the date that the utility receives the completed interconnection request.

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

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

"Shared transformer" means a transformer that supplies secondary voltage to more than one customer.

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

"UL Standard 1741" means the standard titled "Inverters, Converters, Controllers, and Interconnection System Equipment for Use with Distributed Energy Resources," January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

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

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

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

199—45.2(476) Scope.

45.2(1) This chapter applies to utilities, and distributed generation facilities seeking to operate in parallel with utilities, provided the facilities are not subject to the interconnection requirements of an affected system, the Federal Energy Regulatory Commission (FERC), the Midcontinent Independent System Operator, Inc. (MISO), the Southwest Power Pool (SPP), the Midwest Reliability Organization (MRO), or the SERC Reliability Corporation (SERC).

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

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

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

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-2014; and

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

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

c. National Electrical Code, ANSI/NFPA 70-2014.

45.3(2) *Interconnection facilities.*

a. A distributed generation facility placed in service after July 1, 2015, is required to have installed a disconnection device. The disconnection device shall be installed, owned, and maintained by the owner of the distributed generation facility and shall be easily visible and adjacent to an interconnection customer's electric meter at the facility. Disconnection devices are considered easily visible and adjacent: for a home or business, up to ten feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade; or for large areas with multiple buildings that require electric service, up to 30 feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade. The disconnection device shall be labeled with a permanently attached sign with clearly visible letters that give procedures/directions for disconnecting the distributed generation facility.

(1) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, adds generation capacity to its existing system that does not require upgrades to the electric meter or electrical service, a disconnection device is not required, unless required by the electric utility's tariff. The customer must notify the electric utility before the generation capacity is added to the existing system.

(2) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, upgrades or changes its electric service, the new or modified electric service must meet all current utility electric service rule requirements.

b. For all distributed generation installations, the customer shall be required to provide and place a permanent placard no more than ten feet away from the electric meter. The placard must be visible from the electric meter. The placard must clearly identify the presence and location of the disconnection device for the distributed generation facilities on the property. The placard must be made of material that is suitable for the environment and must be designed to last for the duration of the anticipated operating life of the distributed generation facility. If no disconnection device is present, the placard shall state "no disconnection device".

If the distributed generation facility is not installed near the electric meter, an additional placard must be placed at the electric meter to provide specific information regarding the distributed generation facility and the disconnection device.

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

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

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

45.3(3) *Access.* If a disconnection device is required, the operator of the distributed generation facility, the utility, and emergency personnel shall have access to the disconnection device at all times. For distributed generation facilities installed prior to July 1, 2015, an interconnection customer may elect to provide the utility with access to a disconnection device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the disconnection device. The lockbox shall be in a location determined by the utility, in consultation with the customer, to be accessible by the utility. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to utility operating personnel for accessing the disconnection device. If the utility needs to isolate the distribution generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

45.3(4) *Inspections and testing.* The operator of the distributed generation facility shall adopt a program of inspection and testing of the generator and its appurtenances and the interconnection facilities

in order to determine necessity for replacement and repair. Such a program shall include all periodic tests and maintenance prescribed by the manufacturer. If the periodic testing of interconnection-related protective functions is not specified by the manufacturer, periodic testing shall occur at least once every five years. All interconnection-related protective functions shall be periodically tested, and a system that depends upon a battery for trip power shall be checked and logged. The operator shall maintain test reports and shall make them available upon request by the electric utility. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 45.3(2) for inspection and testing with reasonable prior notice to the applicant.

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

45.3(6) *Notification.* When the distributed generation facility is placed in service, owners of interconnected distributed generation facilities are required to notify local fire departments via U.S. mail of the location of distributed generation facilities and the associated disconnection device(s). The owner is required to provide any information related to the distributed generation facility as reasonably required by that local fire department including but not limited to:

a. A site map showing property address; service point from utility company; distributed generation facility and disconnect location(s); location of rapid shutdown and battery disconnect(s), if applicable; property owner's or owner's representative's emergency contact information; utility company's emergency telephone number; and size of the distributed generation facility.

b. Information to access the disconnection device.

c. A statement from the owner verifying that the distributed generation facility was installed in accordance with the current state-adopted National Electrical Code.

45.3(7) *Disconnections.* If an interconnection customer fails to comply with the foregoing requirements of rule 199—45.3(476), the electric utility may require disconnection of the applicant's distributed generation facility until the facility complies with rule 199—45.3(476). The disconnection process shall be specified in individual electric utility tariffs or in the interconnection agreement. If separate disconnection of only the distributed generation facility is not feasible or safe, the customer's electric service may be disconnected as provided in 199—Chapter 20.

45.3(8) *Reconnections.* If a customer's distributed generation facility or electric service is disconnected due to noncompliance with rule 199—45.3(476), the customer shall be responsible for payment of any costs associated with reconnection once the facility is in compliance with the rules.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

199—45.4(476) Interconnection requests.

45.4(1) Applicants seeking to interconnect a distributed generation facility shall submit an interconnection request to the utility that owns the electric distribution system to which interconnection is sought. Applicants shall identify in the application if they are representing a group of customers that are located in the same vicinity and whether the application requires a group interconnection study. Applicants shall use the board-approved interconnection request forms and agreements that are provided on the board's Web site, http://iub.iowa.gov.

45.4(2) Preapplication request. Applicants may request a preapplication report from the utility using the following process:

a. The utility shall designate an employee or office from which information on the application process and on the affected system can be obtained through an informal request from the applicant presenting a proposed project for a specific site, which may include multiple proposed individual interconnections in close proximity and related to one project, such as a residential or commercial development proposing rooftop solar on each premises or a multiturbine wind project. The name,

telephone number, and e-mail address of such contact employee or office shall be made available on the utility's Web site. Electric system information provided to the applicant should include, to the extent such provision does not violate confidentiality provisions of prior agreements or critical infrastructure requirements, relevant, available system studies, interconnection studies, and other materials useful for gaining an understanding of an interconnection at a particular point on the utility's electric distribution system. The utility shall comply with reasonable requests for such information.

b. In addition to the information described in paragraph 45.4(2)*"a,"* which may be provided in response to an informal request, an applicant may submit a formal written request form along with a nonrefundable fee of $300 for a preapplication report on a proposed project at a specific site. The utility shall provide the preapplication data described in paragraph 45.4(2)*"a"* to the applicant within 20 business days of receipt of the completed request form and payment of the $300 fee. The preapplication report produced by the utility is nonbinding, it does not confer any rights, and the applicant must still successfully apply to interconnect to the utility's system. The written preapplication report request form shall include the following information to clearly and sufficiently identify the location of the proposed point of interconnection:

(1) Proposed distributed generation facility owner's contact information, including name, address, telephone number, and e-mail address.

(2) Project location (street address with nearby cross streets and name of town).

(3) Meter number, pole number, or other equivalent information identifying the proposed point of interconnection, if available.

(4) Generator type (e.g., solar, wind, combined heat and power).

(5) Size (alternating current kW).

(6) Single or three-phase generator configuration.

(7) Stand-alone generator (whether or not there is an onsite load, not including station service).

(8) Whether or not new service is requested. If there is existing service, include the customer account number, site minimum and maximum current or proposed electric loads in kW (if available) and specify if the load is expected to change.

c. Using the information provided in the preapplication report request form in paragraph 45.4(2)*"b,"* the utility will identify the substation/area bus, bank or circuit likely to serve the proposed point of interconnection. This selection by the utility does not necessarily indicate, after application of the screens or study or both, that this would be the circuit to which the distributed generation facility ultimately will be connected or that interconnection will occur. The applicant must request additional preapplication reports if information about multiple points of interconnection is requested. Subject to paragraph 45.4(2)*"d"* and other confidentiality concerns identified by the utility, the preapplication report will include the following information:

(1) Total capacity (in MW) of substation/area bus, bank or circuit based on normal or operating ratings likely to serve the proposed point of interconnection.

(2) Existing aggregate generation capacity (in MW) interconnected to a substation/area bus, bank or circuit (i.e., amount of generation online) likely to serve the proposed point of interconnection.

(3) Aggregate queued generation capacity (in MW) for a substation/area bus, bank or circuit (i.e., amount of generation in the queue) likely to serve the proposed point of interconnection.

(4) Available capacity (in MW) of substation/area bus or bank and circuit likely to serve the proposed point of interconnection (i.e., total capacity less the sum of existing aggregate generation capacity and aggregate queued generation capacity).

(5) Substation nominal distribution voltage or transmission nominal voltage or both if applicable.

(6) Nominal distribution circuit voltage at the proposed point of interconnection.

(7) Approximate circuit distance between the proposed point of interconnection and the substation.

(8) Actual or estimated peak load and minimum load data, including daytime minimum load and absolute minimum load, when applicable, for relevant line sections.

(9) Number and rating of protective devices and number and type (standard, bi-directional) of voltage-regulating devices between the proposed point of interconnection and the substation/area and whether or not the substation has a load tap changer.

(10) Number of phases available at the proposed point of interconnection. If it is a single phase, distance from the three-phase circuit.

(11) Limiting conductor ratings from the proposed point of interconnection to the distribution substation.

(12) Whether the point of interconnection is located on a spot network, grid network, or radial supply.

(13) Based on the proposed point of interconnection, existing or known constraints such as, but not limited to, electrical dependencies at that location, short-circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints, or secondary networks.

d. The preapplication report need only include existing data. A preapplication report request does not obligate the utility to conduct a study or other analysis of the proposed generator in the event that data is not readily available. If the utility cannot complete all or some of the preapplication report due to lack of available data, the utility shall provide the applicant with a preapplication report that includes the data that is available. The provision of information on "available capacity" pursuant to subparagraph 45.4(2)*"c"*(4) does not imply that an interconnection up to this level may be completed without impacts since there are many variables studied as part of the interconnection review process and data provided in the preapplication report may become outdated at the time of the submission of the complete interconnection request. Notwithstanding any of the provisions of this subrule, the utility shall, in good faith, include data in the preapplication report that represents the best available information at the time of reporting.

45.4(3) Utilities shall specify the fee by level that the applicant shall remit to process the interconnection request. The fee shall be specified in the interconnection request forms. The utilities shall not charge more than the fees as specified below:

a. Level 1 - $125 application fee and up to an additional $125 if the utility performs a witness test as specified in subrule 45.5(10).

b. Level 2 - $250 application fee plus $1 per kVA and up to an additional $125 if the utility performs a witness test as specified in subrule 45.5(10).

c. Level 3 - $500 application fee plus $2 per kVA.

d. Level 4 - $1,000 application fee plus $2 per kVA.

45.4(4) Interconnection requests may be submitted electronically, if agreed to by the parties.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

199—45.5(476) General requirements.

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

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

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

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

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

45.5(6) The applicant shall provide, upon utility request, proof of the applicant's legal right to control the site(s). Site control may be demonstrated through:

a. Ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing, the distributed generation facility;

b. An option to purchase or acquire a leasehold site for such purpose; or

c. Exclusivity or other business relationship between the interconnection customer and the entity having the right to sell, lease, or grant the interconnection customer the right to possess or occupy a site for such purpose.

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

45.5(8) Any metering required for a distributed generation interconnection shall be installed, operated, and maintained in accordance with the utility's metering rules and inspection and testing practices defined in 199—Chapter 20. Any such metering requirements shall be identified in the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement or the Levels 2 to 4 Distributed Generation Interconnection Request Agreement executed between the interconnection customer and the utility.

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

45.5(10) The utility may require a witness test after the distributed generation facility is constructed. The applicant shall provide the utility with at least 15 business days' notice of the planned commissioning test for the distributed generation facility. The applicant and utility shall schedule the witness test at a mutually agreeable time. If the witness test results are not acceptable to the utility, the applicant shall be granted 30 business days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the utility and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the utility; subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the utility's satisfaction, the interconnection request shall be deemed withdrawn. Even if the utility or an entity approved by the utility does not witness a commissioning test, the applicant remains obligated to satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547, Section 5. The applicant shall, if requested by the utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

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

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

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

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

45.6(2) Lab-certified interconnection equipment shall not require further design testing or production testing, as specified by IEEE Standard 1547, Sections 5.1 and 5.2, or additional interconnection equipment modification to meet the requirements for expedited review; however, the applicant shall conduct all commissioning tests or periodic testing as specified by IEEE Standard 1547, Sections 5.3, 5.4, and 5.5. The utility may conduct additional witness tests, but no more frequently than annually.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

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

b. The distributed generation facility has a nameplate capacity rating of 20 kVA or less; and

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

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

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

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

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

b. The nameplate capacity rating is 2 MVA or less for non-inverter-based systems. The Level 2 eligibility for inverter-based systems can be based on the following table.

Line Voltage	Level 2 Eligibility Regardless of Location	Level 2 Eligibility on a Mainline and < 2.5 Electrical Circuit Miles from Substation
< 5 kV	< 500 kVA	< 500 kVA
> 5 kV and < 15 kV	< 2 MVA	< 3 MVA
> 15 kV and < 30 kV	< 3 MVA	< 4 MVA
> 30 kV and < 69 kV	< 4 MVA	< 5 MVA

For purposes of this table, a mainline is the three-phase backbone of a circuit; and

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

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

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

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

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

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

(2) The nameplate capacity rating of the distributed generation facility is 50 kVA or less; and

(3) The proposed distributed generation facility uses a lab-certified inverter-based equipment package; and

(4) The distributed generation facility will use reverse power relays or other protection functions that prevent the export of power into the area network; and

(5) The aggregate of all generation on the area network does not exceed the lower of 5 percent of an area network's maximum load or 50 kVA; and

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

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

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

(2) The aggregated total of the nameplate capacity ratings of all of the generators on the circuit, including the proposed distributed generation facility, is 10 MVA or less; and

(3) The distributed generation facility will use reverse power relays or other protection functions that prevent power flow onto the electric distribution system; and

(4) The distributed generation facility is not served by a shared transformer; and

(5) No construction of facilities by the utility on its own system shall be required to accommodate the distributed generation facility.

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

a. The applicant has filed a Level 4 application; and

b. The nameplate capacity rating of the small generation facility is 10 MVA or less; and

c. Not all of the interconnection equipment or distributed generation facilities being used for the application are lab-certified.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

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

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

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

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

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

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

a. The applicant shall submit an interconnection request using the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement along with the Level 1 application fee.

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

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

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

e. Otherwise, the utility shall approve the interconnection request and provide to the applicant a signed version of the standard Conditional Agreement to Interconnect Distributed Generation Facility in the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement subject to the following conditions:

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

(2) The Certificate of Completion form has been returned to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities;

(3) The witness test has either been successfully completed or waived by the utility in accordance with Section (2)(c)(ii) of the Terms and Conditions for Interconnection in the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement; and

(4) The applicant has signed the standard Conditional Agreement to Interconnect Distributed Generation Facility in the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement. When an applicant does not sign the agreement within 30 business days after receipt of the agreement from the utility, the interconnection request is deemed withdrawn unless the applicant requests to have the deadline extended for no more than 15 business days. An initial request for extension shall not be denied by the utility, but subsequent requests may be denied.

f. If a distributed generation facility is not approved under a Level 1 review and the utility's reasons for denying Level 1 status are not subject to dispute, the applicant may submit a new interconnection request for consideration under Level 2, Level 3, or Level 4 procedures. The date of the completed Level 1 interconnection request shall be retained and shall be used to determine the review order position for subsequent Level 2 to 4 applications, provided the request is made by the applicant within 15 business days after notification that the Level 1 interconnection request is denied.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

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

b. For interconnection of a proposed distributed generation facility within a spot network, the proposed distributed generation facility must be inverter-based and use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal

utility operations, remain above 1 percent of the network's maximum load over the past year, or will remain above a point reasonably set by the utility in good faith. At the utility's discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

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

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

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

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

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

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

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

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

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

a. The applicant submits an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 2 application fee.

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

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

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

the additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.

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

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

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

45.9(3) When a utility determines that the interconnection request passes the Level 2 screening criteria, or the utility determines that the distributed generation facility can be interconnected safely and will not cause adverse system impacts, even if the facility fails one or more of the Level 2 screening criteria, the utility shall provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

45.9(4) Within 30 business days after issuance by the utility of the Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant shall sign and return the agreement to the utility. If the applicant does not sign and return the agreement within 30 business days, the interconnection request shall be deemed withdrawn unless the applicant requests a 15-business-day extension in writing before the end of the 30-day period. The initial request for extension may not be denied by the utility. When the utility conducts an additional review under the provisions of subrule 45.9(6), the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.9(5) The Levels 2 to 4 Distributed Generation Interconnection Agreement is not final until:

a. All requirements in the agreement are satisfied;

b. The distributed generation facility is approved by the electric code officials with jurisdiction over the interconnection;

c. The applicant provides the Certificate of Completion form to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.9(6) Supplemental review may be appropriate when a distributed generation facility fails to meet one or more of the Level 2 screens. The utility shall offer to perform a supplemental review to determine whether there are minor modifications to the distributed generation facility or electric distribution system that would enable the interconnection to be made safely without causing adverse system impacts. To accept the offer of a supplemental review, the applicant shall agree in writing and submit a deposit for the estimated costs of the supplemental review in the amount of the utility's good-faith nonbinding estimate of the costs for such review, both within 15 business days of the offer. If the written agreement and deposit have not been received by the utility within that time frame, the interconnection request shall continue to be evaluated under the applicable study process unless it is withdrawn by the applicant.

a. The applicant may specify the order in which the utility will complete the screens described in paragraph 45.9(6)*"d."*

b. The applicant shall be responsible for the utility's actual costs for conducting the supplemental review. The applicant must pay any review costs that exceed the deposit within 20 business days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced costs, the utility will return such excess within 20 business days of the date of the invoice without interest.

c. Within 30 business days following receipt of the deposit for a supplemental review, the utility shall:

(1) Perform a supplemental review using the screens set forth below;

(2) Notify the applicant in writing of the results; and

(3) Include with the notification copies of the analysis and data underlying the utility's determinations based on the screens.

d. Unless the applicant provided instructions on how to respond to the failure of any of the supplemental review screens identified below at the time the applicant accepted the offer of a supplemental review, the utility shall notify the applicant following the failure of any of the screens; or if the utility is unable to perform the screen described in subparagraph 45.9(6)*"d"*(1) within 2 business days of making such determination, the utility shall obtain the applicant's permission to: (a) continue evaluating the proposed interconnection under this subparagraph; (b) terminate the supplemental review and continue evaluating the small generating facility; or (c) terminate the supplemental review upon withdrawal of the interconnection request by the applicant.

(1) Minimum Load Screen: Where 12 months of line section minimum load data (including onsite load but not station service load served by the proposed small generating facility) are available, can be calculated, can be estimated from existing data, or can be determined from a power flow model, the aggregate generating facility capacity on the line section must be less than 100 percent of the minimum load for all line sections bounded by automatic sectionalizing devices upstream of the proposed small generating facility. If minimum load data is not available, or cannot be calculated, estimated or determined, the utility shall include the reason(s) that it is unable to calculate, estimate or determine minimum load in its supplemental review results notification under paragraph 45.9(6)*"c"* above.

1. The type of generation used by the proposed small generating facility will be taken into account when calculating, estimating, or determining circuit or line section minimum load relevant for the application of screen. Solar photovoltaic (PV) generation systems with no battery storage use daytime minimum load (i.e., 10 a.m. to 4 p.m. for fixed panel systems and 8 a.m. to 6 p.m. for PV systems utilizing tracking systems), while all other types of generation use absolute minimum load.

2. When this screen is being applied to a small generating facility that serves some station service load, only the net injection into the utility's electric system will be considered as part of the aggregate generation.

3. Utility will not consider generating facility capacity known to be already reflected in the minimum load data as part of the aggregate generation for purposes of this screen.

(2) Voltage and Power Quality Screen: In aggregate with existing generation on the line section: (1) the voltage regulation on the line section can be maintained in compliance with relevant requirements under all system conditions; (2) the voltage fluctuation is within acceptable limits as defined by the Institute of Electrical and Electronics Engineers (IEEE) Standard 1453, or utility practice similar to IEEE Standard 1453; and (3) the harmonic levels meet IEEE Standard 519 limits.

(3) Safety and Reliability Screen: The location of the proposed small generating facility and the aggregate generation capacity on the line section do not create impacts to safety or reliability that cannot be adequately addressed without application of the study process. The utility shall give due consideration to the following and other factors in determining potential impacts to safety and reliability in applying this screen.

1. Whether the line section has significant minimum load levels dominated by a small number of customers (e.g., several large commercial customers).

2. Whether the load along the line section is uniform or even.

3. Whether the proposed small generating facility is located in close proximity to the substation (i.e., less than 2.5 electrical circuit miles) and whether the line section from the substation to the point of interconnection is a mainline rated for normal and emergency ampacity.

4. Whether the proposed small generating facility incorporates a time delay function to prevent reconnection of the generator to the system until system voltage and frequency are within normal limits for a prescribed time.

5. Whether operational flexibility is reduced by the proposed small generating facility, such that transfer of the line section(s) of the small generating facility to a neighboring distribution circuit/substation may trigger overloads or voltage issues.

6. Whether the proposed small generating facility employs equipment or systems certified by a recognized standards organization to address technical issues such as, but not limited to, islanding, reverse power flow, or voltage quality.

e. If the proposed interconnection passes the supplemental screens described in subparagraphs 45.9(6)*"d"*(1), (2), and (3), the interconnection request shall be approved and the utility will provide the applicant with an executable interconnection agreement within the time frames established in paragraphs 45.9(6)*"f"* and *"g."* If the proposed interconnection fails any of the supplemental review screens and the applicant does not withdraw its interconnection request, it shall continue to be evaluated under the Level 4 study process consistent with rule 199—45.11(476).

f. If the proposed interconnection passes the supplemental screens described in subparagraphs 45.9(6)*"d"*(1), (2), and (3) and does not require construction of facilities by the utility on its own system, the interconnection agreement shall be provided within 10 business days after the notification of the supplemental review results.

g. If interconnection facilities or minor modifications to the utility's system are required for the proposed interconnection to pass the supplemental screens described in subparagraphs 45.9(6)*"d"*(1), (2), and (3) and the applicant agrees to pay for the modifications to the utility's electric system, the interconnection agreement, along with a nonbinding good-faith estimate for the interconnection facilities or minor modifications or both, shall be provided to the applicant within 15 business days after receiving written notification of the supplemental review results.

h. If the proposed interconnection would require more than interconnection facilities or minor modifications to the utility's system to pass the supplemental screens described in subparagraphs 45.9(6)*"d"*(1), (2), and (3), the utility shall notify the applicant at the same time it notifies the applicant with the supplemental review results, that the interconnection request shall be evaluated under the Level 4 study process unless the applicant withdraws its small generating facility.

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

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

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

a. The applicant shall submit an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 3 application fee.

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

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

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

e. Interconnection requests meeting the requirements set forth in paragraph 45.7(3)*"a"* for nonexporting distributed generation facilities interconnecting to an area network shall be presumed

to be appropriate for interconnection. The utility shall process the interconnection requests using the following procedures:

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

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

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

45.10(2) For a distributed generation facility that satisfies the criteria in paragraph 45.10(1)*"e"* or 45.10(1)*"f,"* the utility shall approve the interconnection request and provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

45.10(3) Within 30 business days after issuance by the utility of the Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant shall complete, sign, and return the agreement to the utility. If the applicant does not sign the agreement within 30 business days, the request shall be deemed withdrawn, unless the applicant requests a 15-business-day extension in writing before the end of the 30-day period. An initial request for extension may not be denied by the utility. After the agreement is signed by the parties, interconnection of the distributed generation facility shall proceed according to any milestones agreed to by the parties in the Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.10(4) The Levels 2 to 4 Distributed Generation Interconnection Agreement shall not be final until:

a. All requirements in the agreement are satisfied; and

b. The distributed generation facility is approved by the electric code officials with jurisdiction over the distributed generation facility; and

c. The applicant provides the Certificate of Completion form to the utility; and

d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.10(5) If the distributed generation facility is not approved under a Level 3 review, the utility shall provide the applicant with written notification explaining its reasons for denying the interconnection request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The review order position assigned to the Level 3 interconnection request shall be retained, provided that the request is made within 15 business days after notification that the current interconnection request is denied.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

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

45.11(1) The applicant submits an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 4 application fee.

45.11(2) Within ten business days after receipt of an interconnection request, the utility shall notify the applicant whether the request is complete. When the interconnection request is not complete, the utility shall provide the applicant with a written list detailing the information required to complete the interconnection request. The applicant has ten business days to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for

receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.

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

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

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

b. Standard Level 4 study review procedures.

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

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

1. The utility shall provide the applicant a copy of the Interconnection Feasibility Study Agreement or a mutually agreed-upon alternative form, plus a description of the study and a nonbinding estimate of the cost to perform the study.

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

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

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

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

1. The utility shall provide the applicant a copy of the Interconnection System Impact Study Agreement or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

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

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

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

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

1. The utility shall provide the applicant a copy of the Interconnection Facilities Study Agreement or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

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

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

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

45.11(5) Interconnection feasibility study.

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

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

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

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

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

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

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

e. Either party can require that the Interconnection Feasibility Study Agreement be used. However, if both parties agree, an alternative form can be used.

45.11(6) Interconnection system impact study. An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the utility's electric distribution system. The study identifies and details the system impacts that interconnecting the distributed generation facility to the utility's electric system have if there are no system modifications. It focuses on the potential or actual adverse system impacts identified in the interconnection feasibility study, including those that were identified in the scoping meeting. The study shall consider all other distributed generation facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the utility's system, have a pending higher review order position to interconnect to the electric distribution system, or have signed an interconnection agreement. The utility shall coordinate with any affected system owners regarding potential impacts to affected systems in a timely manner and include the results of such studies along with the system impacts study.

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

(1) A load flow study;

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

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

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

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

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

d. Either party can require that the Interconnection System Impact Study Agreement be used. However, if both parties agree, an alternative form can be used.

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

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

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

(1) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;

(2) The nature and estimated cost of the utility's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and

(3) An estimate for the time required to complete the construction and installation of the interconnection facilities and distribution upgrades.

c. The utility may agree to permit an applicant to arrange separately for a third party to design and construct the required interconnection facilities. In such a case, when the applicant agrees to separately arrange for design and construction, and to comply with security and confidentiality requirements, the utility shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the utility's specifications.

d. Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the utility shall provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

e. In the event that distribution upgrades are identified in the interconnection system impact study that shall be added only in the event that customers with higher review order positions not yet interconnected eventually complete and interconnect their generation facilities, the applicant may

elect to interconnect without paying the estimate for such upgrades at the time of the interconnection, provided that the applicant pays for such upgrades prior to commencement of construction of such upgrades to be completed by the time the customer with higher review order position is ready to interconnect. If the applicant does not pay for such upgrades at that time, the utility shall require the applicant to immediately disconnect its distributed generation facility to accommodate the customer with higher review order position.

f. Either party can require that the Interconnection Facilities Study Agreement be used. However, if both parties agree, an alternative form can be used.

45.11(8) When a utility determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the distributed generation facility, the utility shall provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement. If the interconnection request is denied, the utility shall provide the applicant with a written explanation as to its reasons for denying interconnection. If denied, the interconnection request does not retain its position in the review order.

45.11(9) Within 30 business days after receipt of the Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant shall provide all necessary information required of the applicant by the agreement, and the utility shall develop all other information required of the utility by the agreement. After completing the agreement with the additional information, the utility will transmit the completed agreement to the applicant. Within 30 business days after receipt of the completed agreement, the applicant shall sign and return the completed agreement to the utility. If the applicant does not sign and return the agreement within 30 business days after receipt, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline extended by no more than 15 business days, prior to the expiration of the 30-business-day period. The initial request for extension may not be denied by the utility. If the applicant does not sign and return the agreement after the 15-business-day extension, the interconnection request shall be deemed withdrawn. If withdrawn, the interconnection request does not retain its position in the review order. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.11(10) The Levels 2 to 4 Distributed Generation Interconnection Agreement is not final until:

a. The requirements of the agreement are satisfied; and

b. The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection; and

c. The applicant provides the Certificate of Completion form to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Levels 2 to 4 Distributed Generation Interconnection Agreement.

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

199—45.12(476) Disputes.

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

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

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

the outcome of the informal process, the party may file a formal complaint with the board under rule 199—6.5(476).

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

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

199—45.13(476) Records and reports.

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

a. The date the interconnection application was received as complete, the total AC nameplate capacity, and the fuel type of the distributed generation facility;

b. The level of review received (Level 1, Level 2, Level 3, or Level 4) and whether the project failed any initial screens, and if so and readily determinable, which screens; whether the facility received a supplemental review; and whether any impact or facility study was conducted;

c. Whether the interconnection was approved, denied, or withdrawn and the date of that action; and

d. Whether the facility is operational and, if so, the date the electric utility authorized the facility to begin operation.

45.13(2) Each utility shall file a report by May 1 of each year detailing the information required in subrule 45.13(1) for the previous calendar year.

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

[**ARC 8859B**, IAB 6/16/10, effective 7/21/10; **ARC 2917C**, IAB 1/18/17, effective 2/22/17]

These rules are intended to implement Iowa Code sections 476.1 and 476.8 and Section 211 of the Public Utilities Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005.

[Filed ARC 8859B (Notice ARC 8201B, IAB 10/7/09), IAB 6/16/10, effective 7/21/10]
[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]
[Filed ARC 2917C (Notice ARC 2673C, IAB 8/17/16), IAB 1/18/17, effective 2/22/17]

CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program and establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees. The purpose of this program is to provide transitional health and dental care coverage to children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. This chapter shall be construed to comply with all requirements for federal funding under Title XXI of the Social Security Act or under the terms of any applicable waiver of Title XXI requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XXI or the terms of any applicable waiver, the requirements of Title XXI or the terms of the waiver shall prevail.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14]

441—86.1(514I) Definitions.

"Applicant" shall mean anyone in the household, including all adults and children under the age of 19 who are counted in the HAWK-I family size according to the modified adjusted gross income methodology and who are listed on the application or renewal form.

"Benchmark benefit package for health care coverage" shall mean any of the following:

1. The standard Blue Cross Blue Shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. Section 8903(1).
2. A health benefits coverage plan that is offered and generally available to state employees in this state.
3. The plan of a health maintenance organization, as defined in 42 U.S.C. Section 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

"Capitation rate" shall mean the fee the department pays monthly to a participating health or dental plan for each enrollee for the provision of covered medical or dental services whether or not the enrollee received services during the month for which the fee is intended.

"Contract" shall mean the contract between the department and the person or entity selected as the third-party administrator or the contract between the department and the participating health or dental plan for the provision of medical or dental services to HAWK-I enrollees for whom the participating health or dental plans assume risk.

"Cost sharing" shall mean the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and Iowa Code section 514I.10.

"Countable income" shall mean earned and unearned income of the family according to the modified adjusted gross income methodology.

"Covered services" shall mean all or a part of those medical and dental services set forth in rule 441—86.14(514I).

"Dentist" shall mean a person who is licensed to practice dentistry.

"Department" shall mean the Iowa department of human services.

"Director" shall mean the director of the Iowa department of human services.

"Eligible child" shall mean an individual who meets the criteria for participation in the HAWK-I program as set forth in rule 441—86.2(514I).

"Emergency dental condition" shall mean an oral condition that occurs suddenly and creates an urgent need for professional consultation or treatment. Emergency conditions may include hemorrhage, infection, pain, broken teeth, knocked-out teeth, or other trauma.

"Emergency medical condition" shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

"Emergency services" shall mean, with respect to an individual enrolled with a plan, covered inpatient and outpatient services which are furnished by a provider qualified to furnish these services and which are needed to evaluate and stabilize an emergency medical or dental condition.

"Enrollee" shall mean a child who has been determined eligible for the program and who has been enrolled with a participating health plan.

"Family" shall mean anyone in the household, including all adults and children under the age of 19 who are counted in the HAWK-I family size according to the modified adjusted gross income methodology.

"Federal poverty level" shall mean the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

"Good cause" shall mean the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. There was a reason beyond the enrollee's control.
4. There was a failure to receive the third-party administrator's request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

"HAWK-I board" or *"board"* shall mean the entity that adopts rules, establishes policy, and directs the department regarding the HAWK-I program.

"HAWK-I program" or *"program"* shall mean the healthy and well kids in Iowa program implemented in this chapter to provide health and dental care coverage to eligible children.

"Health insurance coverage" shall mean health insurance coverage as defined in 45 CFR Section 144.103, as amended to October 1, 2008.

"Health Insurance Marketplace" or *"Exchange"* shall mean the entity authorized under 42 U.S.C. Section 18031(d)(4)(F) as amended to April 1, 2013, to evaluate and determine eligibility of applicants for Medicaid, the Children's Health Insurance Program (CHIP), and other health programs.

"Institution for mental diseases" shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1009 as amended November 10, l994.

"Modified adjusted gross income" shall mean the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603 as amended to April 1, 2013.

"Nonmedical public institution" shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1009 as amended November 10, l994.

"Participating dental plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide dental insurance in Iowa that has contracted with the department to provide dental insurance coverage to eligible children under this chapter.

"Participating health plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

"Physician" shall be defined as provided in Iowa Code subsection 135.1(4).

"Provider" shall mean an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical or dental care or services to an enrollee pursuant to the HAWK-I program.

"Third-party administrator" shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.2(514I) Eligibility factors. The decision with respect to eligibility shall be based primarily on electronic data matches and information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the HAWK-I program.

86.2(1) *Age.* The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child's nineteenth birthday.

86.2(2) *Income.*

a. Countable income. In determining initial and ongoing eligibility for the HAWK-I program, countable income shall not exceed 302 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

b. Verification of income. Income shall be verified through electronic data matches when possible or otherwise verified using the best information available.

(1) Pay stubs, tip records, tax records and employers' statements are acceptable forms of verification of earned income.

(2) If self-employment income cannot be verified through electronic means, business records or income tax returns from the previous year can be used if they are representative of anticipated earnings. If business records or tax returns from the previous year are not representative of anticipated earnings, an average of the business records or tax returns from the previous two or three years may be used if that average is representative of anticipated earnings.

c. Changes in income. Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child's eligibility to participate in the HAWK-I program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(514I).

86.2(3) *Family size.* For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall be determined according to the modified adjusted gross income methodology.

86.2(4) *Uninsured status.* The child must be uninsured.

a. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan shall not be considered insured for purposes of the HAWK-I program if:

(1) The plan provides coverage only for a specific disease or service (such as a vision, dental, or cancer policy), or

(2) The child does not have reasonable geographic access to care under that plan. "Reasonable geographic access" means that the plan or an option available under the plan does not have service area limitations or, if the plan has service area limitations, the child lives within 30 miles or 30 minutes of a network primary care provider, or

(3) The child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology. If a child loses eligibility because of such loss of income disregards, the child may be covered under the HAWK-I program for up to 12 months following the loss of Medicaid eligibility regardless of the presence of other health insurance.

b. A child whose health insurance ends in the month of application shall be considered uninsured for purposes of HAWK-I eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)*"c."*

c. American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the HAWK-I program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

86.2(5) *Ineligibility for Medicaid.* The child shall not be receiving Medicaid or eligible to receive Medicaid except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

86.2(6) *Iowa residency.* Residency in Iowa is a condition of eligibility for the HAWK-I program. Residency shall be established in accordance with rule 441—75.10(249A).

86.2(7) *Citizenship and immigration status.* To be eligible for the HAWK-I program, the child shall be a citizen or lawfully admitted immigrant. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted immigrant child is eligible to participate in the HAWK-I program.

a. The citizenship or immigration status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

b. As a condition of eligibility for HAWK-I:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration.

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or immigration status and for providing any required proof of the status.

c. Except as provided in 441—paragraph 75.11(2)*"f,"* applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7)*"b"* shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2)*"d," "e," "g," "h,"* and *"i."*

d. An applicant or enrollee shall have a reasonable opportunity period to obtain and provide proof of citizenship and nationality in accordance with 441—paragraph 75.11(2)*"c."*

e. Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the HAWK-I program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee unless the state contributes only a nominal amount toward the cost of dependent coverage. "Nominal amount" shall mean $10 or less per month.

86.2(9) *Inmates of nonmedical public institutions.* The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section 435.1009 as amended November 10, l994.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1009 as amended November 10, l994.

86.2(11) *Furnishing a social security number.* As a condition of eligibility and in accordance with rule 441—75.7(249A), a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under HAWK-I is being requested or received.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 7881B**, IAB 7/1/09, effective 7/1/09; **ARC 8109B**, IAB 9/9/09, effective 10/14/09; **ARC 8127B**, IAB 9/9/09, effective 9/1/09; **ARC 8280B**, IAB 11/18/09, effective 1/1/10; **ARC 8281B**, IAB 11/18/09, effective 12/23/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8838B**, IAB 6/16/10, effective 6/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14]

441—86.3(514I) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply for the HAWK-I program in accordance with rule 441—76.1(249A).

86.3(2) *Applications.* An application for the HAWK-I program shall be filed in accordance with rule 441—76.1(249A).

86.3(3) *Place of filing.* An application for the HAWK-I program may be filed with the third-party administrator responsible for making the eligibility determination through an Internet Web site, by telephone, through other electronic means, or in any local or area office of the department of human services, an exchange, disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided.

86.3(4) *Date and method of filing.* The application is considered filed when received in accordance with rule 441—76.1(249A).

86.3(5) *Right to withdraw application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application shall be documented, and the applicant shall be sent a notice of decision confirming the request.

86.3(6) *Application not required.*

a. An application shall not be required when a child becomes ineligible for Medicaid.

b. A new application shall not be required when an eligible child is added to an existing HAWK-I eligible group.

c. A new application shall not be required when a child moves between supplemental dental-only coverage as specified in rule 441—86.20(514I) and full medical and dental coverage.

86.3(7) *Information and verification procedure.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee and verified through electronic data matches whenever possible.

a. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall be notified in writing of additional information or verification that is required to establish eligibility. The notice may be provided personally, by U.S. mail, by e-mail, or by facsimile.

b. Failure to supply the information or verification or refusal to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall have 10 working days to supply the information or verification requested. The due date may be extended for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) *Time limit for decision.* Decisions regarding the applicant's eligibility to participate in the HAWK-I program shall be made within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed for reasons beyond the control of the department or third-party administrator. Day one of the ten-day period starts the first working day following the date of receipt of a completed application and all necessary information and verification.

86.3(9) *Applicant cooperation.* An applicant must cooperate with the third-party administrator in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

86.3(10) *Waiting lists.* When the department has established that all of the funds appropriated for this program are obligated, all subsequent applications for HAWK-I coverage shall be denied unless Medicaid eligibility exists.

a. The department or the third-party administrator shall mail a notice of decision to the applicant that states:

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The applicant does not meet eligibility requirements, in which case the applicant shall not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, it must be established that the child is not eligible for Medicaid.

c. Applicants shall be placed on the waiting list on the basis of the date an identifiable application form specified in rule 441—76.1(249A) is received.

(1) In the event that more than one application is received on the same day, applicants shall be placed on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) Any subsequent ties shall be determined by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, applicants shall be selected from the waiting list based on the order in which their names appear on the list and shall be notified of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, the applicant's name shall be deleted from the waiting list and the next applicant on the waiting list shall be contacted.

[**ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0552C**, IAB 1/9/13, effective 4/1/13; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.4(514I) Coordination with Medicaid.

86.4(1) *HAWK-I applicant eligible for Medicaid.* At the time of initial application, if it is determined the child is eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in the Medicaid program.

86.4(2) *HAWK-I enrollee eligible for Medicaid.* At the time of the annual review, if the child is determined eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in Medicaid effective the first day following the expiration of the 12-month HAWK-I enrollment period.

86.4(3) *Medicaid member becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in the HAWK-I program if otherwise eligible.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.5(514I) Effective date of coverage.

86.5(1) *Initial application.* Coverage for a child who is determined eligible for the HAWK-I program on the basis of an initial application for either HAWK-I or Medicaid shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed. However, when the child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost. Also, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)*"c"* when the child's health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

a. The child is moving from Medicaid to HAWK-I.

b. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.

c. The cost of health insurance coverage for the child exceeds 5 percent of the family's gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.

d. The health insurance was provided through an individual plan.

e. The child's health insurance coverage was lost due to:

(1) Domestic violence.

(2) Divorce or death of a parent.

(3) An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.

(4) A job change to a new employer that does not offer the parent dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.

(5) Utilization of the maximum lifetime coverage amount.

(6) Expiration of coverage under COBRA.

(7) Discontinuation of dependent coverage by the parent's employer.

(8) A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

86.5(2) *Referrals from Medicaid.*

a. Cancellation of Medicaid. Coverage for children who are determined eligible for the HAWK-I program due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

b. EXCEPTION: If the child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology, the child may be covered under the HAWK-I program for up to 12 months following the loss of Medicaid eligibility, regardless of the presence of other health insurance coverage.

86.5(3) *Annual renewals.* Coverage for children who are determined eligible for the HAWK-I program on the basis of an annual renewal shall be effective the first day of the month following the month in which the previous enrollment period ended.

86.5(4) *Children added to an existing HAWK-I enrollment period.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a request from the family to add the child to an existing enrollment period shall be effective the first day of the month following the month in which the request was made. However, if the child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost unless the child is subject to a one-month waiting period in accordance with paragraph 86.2(4)*"b."*

[**ARC 8281B**, IAB 11/18/09, effective 12/23/09; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.6(514I) Selection of a plan. At the time of initial application, if there is more than one participating health or dental plan available in the child's county of residence, the applicant shall select the health or dental plan in which the applicant wishes to enroll as part of the eligibility process. The enrollee may change plans only at the time of the annual review unless the provisions of subrule 86.7(1) or paragraph 86.6(2)*"a"* apply. The applicant may designate the plan choice verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose but is not required.

86.6(1) *Period of enrollment.* Once enrolled in a health or dental plan, the child shall remain enrolled in the selected health or dental plan for a period of 12 months.

a. Exceptions. A child may be enrolled in a plan for less than 12 months if:

(1) The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the health or dental plan and subsequently reapplies before the end of the original 12-month enrollment period, the child shall be enrolled in the health or dental plan from which the child was originally disenrolled unless the provisions of subrule 86.7(1) apply.

(2) The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

(3) A request to change plans is accepted in accordance with paragraphs 86.6(2)*"b"* and *"c."*

b. Request to change plan. An enrollee may ask to change the health or dental plan:

(1) Within 90 days following the date the initial enrollment was sent to the health or dental plan regardless of the reason for the plan change or whether the original health or dental plan was selected by the applicant or was assigned in accordance with subrule 86.6(3).

(2) At any time for cause. "Cause" as defined in 42 CFR 438.56(d)(2) as amended to May 13, 2010, includes, but is not limited to:

1. The enrollee moves out of the plan's service area.
2. Because of moral or religious objections, the plan does not cover the services the enrollee seeks.
3. The enrollee needs related services (for example, a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the enrollee's primary care provider or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk.
4. Other reasons including but not limited to poor quality of care, lack of access to services covered under the contract, or lack of access to providers experienced in dealing with the enrollee's health care needs.

c. Response to request.

(1) If the enrollee has not requested to change health or dental plans within 90 days following the date the initial enrollment was sent to the health or dental plan and it is determined that cause does not exist, the request to change plans shall be denied.

(2) All approved changes shall be made prospectively and shall be effective on the first day of the month following the month in which the request was made.

86.6(2) *Failure to select a health or dental plan.* When more than one health or dental plan is available, if the applicant fails to select a health or dental plan within ten working days of the written request to make a selection, the third-party administrator shall select the health or dental plan and notify the family of the enrollment. The third-party administrator shall select the plan on a rotating basis to ensure an equitable distribution between participating health and dental plans.

86.6(3) *Child moves from the service area.* The child may be disenrolled from the health or dental plan when the child moves to an area of the state in which the health or dental plan does not have a provider network established. If the child is disenrolled, the child shall be enrolled in a participating health or dental plan in the new location. The period of enrollment shall be the number of months remaining in the original certification period.

86.6(4) *Change at annual review.* If more than one health or dental plan is available at the time of the annual review of eligibility, the family may designate another plan either verbally or in writing. Form 470-3574, Selection of Plan, may be used for this purpose. The child shall remain enrolled in the current health or dental plan if the family does not notify the third-party administrator of a new health or dental plan choice by the end of the current 12-month enrollment period.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9084B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.7(514I) Cancellation. The child's eligibility for the HAWK-I program shall be canceled before the end of the 12-month enrollment period for any of the following:

86.7(1) *Child moves from the service area.* Rescinded IAB 1/13/10, effective 3/1/10.

86.7(2) *Age.* The child shall be canceled from the HAWK-I program as of the first day of the month following the month in which the child attained the age of 19.

86.7(3) *Nonpayment of premiums.* The child shall be canceled from the program as of the first day of the month in which premiums are not paid in accordance with the provisions of subrules 86.8(3), 86.8(4) and 86.8(5).

86.7(4) *Iowa residence abandoned.* The child shall be canceled from the program as of the first day of the month following the month in which the child relocated to another state. Eligibility shall not be canceled when the child is temporarily absent from the state in accordance with the provisions of 441—subrule 75.10(2).

86.7(5) *Eligible for Medicaid.* The child shall be canceled from the program as of the first day of the month following the month in which Medicaid eligibility is obtained. If there are months during which the child is covered by both the Medicaid and HAWK-I programs, the HAWK-I program shall be the primary payor and Medicaid shall be the payor of last resort.

86.7(6) *Enrolled in other health insurance coverage.* The child shall be canceled from the program as of the first day of the month following the month in which the department or the third-party

administrator is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the HAWK-I program, the other insurance plan shall be the primary payor and HAWK-I shall be the payor of last resort.

86.7(7) *Admission to a nonmedical public institution.* The child shall be canceled from the program as of the first day of the month following the month in which the child enters a nonmedical public institution unless the temporary absence provisions of paragraph 86.2(3)*"d"* apply.

86.7(8) *Admission to an institution for mental disease.* The child shall be canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(9) *Employment with the state of Iowa.* The child shall be canceled from the HAWK-I program as of the first day of the month in which the child's parent became eligible to participate in a health or dental plan available to state of Iowa employees.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.8(514I) Premiums and copayments.

86.8(1) *Income considered.* The income considered in determining the premium amount shall be the family's countable income using the modified adjusted gross income methodology.

86.8(2) *Premium amount.* Except as specified for supplemental dental-only coverage in subrule 86.20(3), premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaskan Native; or

(2) The family's countable income is less than 181 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds 181 percent of the federal poverty level for a family of the same size but does not exceed 242 percent of the federal poverty level for a family of that size, the premium is $10 per child per month with a $20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds 243 percent of the federal poverty level for a family of the same size, the premium is $20 per child per month with a $40 monthly maximum per family.

86.8(3) *Due date.*

a. Payment upon initial application. "Initial application" means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the fifth day of the second month following the month of decision.

b. Payment upon renewal. "Renewal" means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the fifth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the third-party administrator shall notify the health and dental plans of the enrollment.

c. Subsequent payments. All subsequent premiums are due by the fifth day of each month for the next month's coverage and must be postmarked no later than the last day of the month before the month of coverage. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

d. Holiday or weekend. When the premium due date falls on a holiday or weekend, the premium shall be due on the first business day following the due date.

86.8(4) *Grace period.* A grace period shall be allowed on any monthly premium not received as prescribed in paragraph 86.8(3)*"c."* The grace period shall be the coverage month for which the premium is due.

a. Failure to submit a premium by the last calendar day of the grace period shall result in disenrollment.

b. If the premium is subsequently received, coverage will be reinstated if the premium was postmarked or otherwise paid:

(1) In the grace period, or

(2) In the 14 calendar days following the grace period.

86.8(5) *Method of premium payment.* Premiums may be submitted in the form of cash, personal checks, electronic funds transfers (EFT), or other methods established by the third-party administrator.

86.8(6) *Failure to pay premium.* Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in cancellation from the program unless the grace period provisions of subrule 86.8(4) apply. Once a child is canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

86.8(7) *Copayment.* There shall be a $25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 181 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

86.8(8) *Program lock-out.* A child who has been disenrolled from the program due to nonpayment of premiums shall be locked out of the program until the arrearage is paid in full or for a period not to exceed 90 days, whichever occurs first.

a. Failure to pay the unpaid premiums shall result in denial of the application if less than 90 days has elapsed since the effective date of disenrollment. EXCEPTION: The unpaid premium obligation shall be reduced to zero if upon reapplication a premium would not be assessed because the household's income is less than 150 percent of the federal poverty level.

b. If the arrearage is not paid within 24 months of failing to pay a premium, the debt shall be expunged and shall no longer be owed.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 2912C**, IAB 1/18/17, effective 3/1/17]

441—86.9(514I) Annual reviews of eligibility. All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" shall be the first month in which coverage is provided.

86.9(1) *Review form.* A prepopulated review form on which the answers, except for income, have been completed based on the information on file shall be sent to the family. The family shall review the completed information for accuracy and fill in the income section of the form. If family income cannot be verified through electronic data matches, the family shall be required to provide verification of current income. The family shall sign and date the form attesting to its accuracy as part of the review process.

86.9(2) *Failure to provide information.* The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process. If the completed review form and any information necessary to establish continued eligibility are received within 14 calendar days of the end of an enrollment period, the review form and information shall be acted upon as though they had been received timely. If the fourteenth calendar day falls on a weekend or state holiday, the enrollee shall have until the next business day to provide the review form and any information necessary to establish continued eligibility.

86.9(3) *Change in plan.* Rescinded IAB 1/13/10, effective 3/1/10.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported timely to the department or the third-party administrator. "Timely" shall mean no later than ten working days after the change occurred. The ten working-day period begins the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change unless the child is emancipated, married, or otherwise in an independent living situation, in which case the child shall be responsible for reporting the change.

86.10(1) *Entry to a nonmedical public institution.* The entry of a child into a nonmedical public institution, such as a penal institution, shall be reported following entry to the institution.

86.10(2) *Iowa residence is abandoned.* The abandonment of Iowa residence shall be reported following the move from the state.

86.10(3) *Other insurance coverage.* Enrollment of the child in other health insurance coverage shall be reported.

86.10(4) *Employment with the state of Iowa.* The employment of the child's parent with the state of Iowa shall be reported.

86.10(5) *Decrease in income.* If the family reports a decrease in income, the third-party administrator shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(6) *Information reported by a third party.* Information reported by a third party shall not be acted upon until the information is verified in accordance with subrule 86.3(7).

86.10(7) *Cooperation.* The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

86.10(8) *Effective date of change in eligibility.*

a. When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

b. When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

c. When an anticipated change in circumstances is reported before the change occurs, no action shall be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.11(514I) Notice requirements. The applicant shall be provided an adequate written notice of the decision regarding the applicant's eligibility for the HAWK-I program. The enrollee shall be notified in writing of any decision that adversely affects the enrollee's eligibility or the amount of benefits. The notice shall be timely and adequate as provided in 441—subrule 7.7(1).

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.13(514I) Third-party administrator. The third-party administrator shall have the following responsibilities:

86.13(1) *Determination of eligibility.* Eligibility for the HAWK-I program shall be determined utilizing the department's eligibility system and in accordance with the provisions of rule 441—86.2(514I).

86.13(2) *Dissemination of application forms and information.* The third-party administrator shall disseminate the following:

a. Rescinded IAB 10/17/01, effective 12/1/01.

b. Outreach materials, application forms, or other materials developed and produced by the department to any organization or individual making a request for the materials. If the request is for quantities exceeding ten, the third-party administrator shall forward the request to Iowa prison industries for dissemination.

c. Participating health and dental plan information.

d. Other materials as specified by the department.

86.13(3) *Toll-free dedicated customer services line.* The third-party administrator shall maintain a toll-free multilingual dedicated customer service line in accordance with the requirements of the department.

86.13(4) *HAWK-I program web site.* The third-party administrator shall work in cooperation with the department to maintain a web site providing information about the HAWK-I program.

86.13(5) *Application process.* Applications shall be processed in accordance with the provisions of rule 441—86.3(514I).

a. Processing applications and mailing of approvals and denials shall be completed within ten working days of receipt of the application and all necessary information and verification unless the application cannot be processed within this period for a reason beyond the control of the third-party administrator.

b. Original verification information shall be returned to the applicant or enrollee upon completion of review.

c. Applications shall be screened for completeness. Additional information or verification necessary to establish eligibility may be requested in writing. All information or verification of information attained shall be logged.

d. Health and dental plans shall be notified when the number of enrollees who speak the same non-English language equals or exceeds 10 percent of the number of enrollees in the health or dental plan.

86.13(6) *Effective date of coverage.* The effective date of coverage shall be established in accordance with the provisions of rule 441—86.5(514I).

86.13(7) *Selection of health or dental plan.* The third-party administrator shall provide participating health and dental plan information to families of eligible children by telephone or mail and, if necessary, offer unbiased assistance in the selection of a health or dental plan in accordance with the provisions of rule 441—86.6(514I).

86.13(8) *Enrollment.* The third-party administrator shall notify participating health and dental plans of enrollments.

86.13(9) *Disenrollments.* The third-party administrator shall disenroll an enrollee when the enrollee's eligibility for the HAWK-I program is canceled in accordance with the provisions of rule 441—86.7(514I). The third-party administrator shall notify the participating health and dental plans when an enrollee is disenrolled.

86.13(10) *Annual reviews of eligibility.* Eligibility shall be reviewed annually in accordance with the provisions of rules 441—86.2(514I) and 441—86.9(514I).

86.13(11) *Acting on reported changes.* The third-party administrator shall ensure that all changes reported by the HAWK-I enrollee in accordance with rule 441—86.10(514I) are acted upon no later than ten working days from the date the change is reported.

86.13(12) *Premiums.* The third-party administrator shall:

a. Calculate premiums in accordance with the provisions of rule 441—86.8(514I).

b. Collect HAWK-I premium payments. The funds shall be deposited into an interest-bearing account maintained by the department for periodic transmission of the funds and any accrued interest to the HAWK-I trust fund in accordance with state accounting procedures.

c. Track the status of the enrollee premium payments and provide the data to the department.

d. Mail a reminder notice to the family if the premium is not received by the due date.

86.13(13) *Notices to families.* Timely and adequate approval, denial, and cancellation notices that clearly explain the action being taken in regard to an application or an existing enrollment shall be issued

to the family. Denial and cancellation notices shall clearly explain the appeal rights of the applicant or enrollee. All notices shall be available in English and Spanish.

86.13(14) *Records.* The third-party administrator shall at a minimum maintain the following records:

a. All records required by the department and the department of inspections and appeals.

b. Records which identify transactions with or on behalf of each enrollee by social security number or other unique identifier.

c. Application, case and financial records.

d. All other records as required by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

86.13(15) *Confidentiality.* The third-party administrator shall protect and maintain the confidentiality of HAWK-I applicants and enrollees in accordance with 441—Chapter 9.

86.13(16) *Reports to the department.* The third-party administrator shall submit reports as required by the department.

86.13(17) *Systems.* The third-party administrator shall maintain data files that are compatible with the department's and the health plans' data files and shall make the system accessible to department staff.
[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.14(514I) Covered services. The benefits provided under the HAWK-I program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act.

86.14(1) *Required medical services.* The participating health plan shall cover at a minimum the following medically necessary services:

a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).

b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).

c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).

d. Ambulance services.

e. Physical therapy.

f. Nursing care services (including skilled nursing facility services).

g. Speech therapy.

h. Durable medical equipment.

i. Home health care.

j. Hospice services.

k. Prescription drugs.

l. Rescinded IAB 1/13/10, effective 3/1/10.

m. Hearing services.

n. Vision services (including corrective lenses).

o. Translation and interpreter services as specified pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

p. Chiropractic services.

q. Occupational therapy.

86.14(2) *Abortion.* Payment for abortion shall only be made under the following circumstances:

a. The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.

b. The pregnancy was the result of an act of rape or incest.

86.14(3) *Required dental services.* Participating dental plans shall cover at a minimum the following necessary dental services:

a. Diagnostic and preventive services.

b. Routine and restorative services.

c. Endodontic services.

d. Periodontal services.

e. Cast restorations.

f. Prosthetics.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 2912C**, IAB 1/18/17, effective 3/1/17]

441—86.15(514I) Participating health and dental plans.

86.15(1) *Licensure.* The participating health or dental plan must:

a. Be licensed by the division of insurance of the department of commerce to provide health or dental care coverage in Iowa; or

b. Be an organized delivery system licensed by the director of public health to provide health or dental care coverage.

86.15(2) *Services.* The participating health or dental plan shall provide coverage for the services specified in rule 441—86.14(514I) to all children determined eligible.

a. The participating health or dental plan shall make services it provides to HAWK-I enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the health or dental plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating health or dental plan does not provide statewide coverage, the health or dental plan shall participate in every county in which it is licensed and in which a provider network has been established.

86.15(3) *Premium tax.* Premiums paid to participating health and dental plans by the third-party administrator are exempt from premium tax.

86.15(4) *Provider network.* The participating health or dental plan shall establish a network of providers. Providers contracting with the participating health or dental plan shall comply with HAWK-I requirements, which shall include collecting copayments, if applicable.

86.15(5) *Identification cards.* Identification cards shall be issued by the participating health or dental plan to the enrollees for use in securing covered services.

86.15(6) *Marketing.*

a. Participating health and dental plans may not distribute directly or through an agent or independent contractor any marketing materials.

b. All marketing materials require prior approval from the department.

c. At a minimum, participating health and dental plans must provide the following material in writing or electronically:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the HAWK-I enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All health and dental plan literature and brochures shall be available in English and any other language when enrollment in the health or dental plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the health or dental plan and shall be made available to the third-party administrator for distribution.

d. All health and dental plan literature and brochures shall be approved by the department.

e. The participating health and dental plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other "cold-call" marketing.

f. The participating health or dental plan may make marketing presentations at the discretion of the department.

86.15(7) *Appeal process.* The participating health or dental plan shall have a written procedure by which enrollees may appeal issues concerning the health or dental care services provided through providers contracted with the health or dental plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames which ensure that appeals be resolved within 45 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician, dentist, or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals which is made available to the department at its request.

i. Ensures that the participating health or dental plan's written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health or dental plan make quarterly reports to the department summarizing appeals and resolutions.

86.15(8) *Appeals to the department.* Rescinded IAB 1/13/99, effective 1/1/99.

86.15(9) *Records and reports.* The participating health and dental plans shall maintain records and reports as follows:

a. The health or dental plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the health or dental plan or subcontractor of the health or dental plan, as appropriate, must maintain a medical or dental records system that:

(1) Identifies each medical or dental record by HAWK-I enrollee identification number.

(2) Maintains a complete medical or dental record for each enrollee.

(3) Provides a specific medical or dental record on demand.

(4) Meets state and federal reporting requirements applicable to the HAWK-I program.

(5) Maintains the confidentiality of medical or dental records information and releases the information only in accordance with established policy below:

1. All medical and dental records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, other practitioners, or facilities that are providing services to enrollees under a subcontract with the health or dental plan. This provision also applies to specialty providers who are retained by the health or dental plan to provide services which are infrequently used, which provide a support system service to the operation of the health or dental plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the health or dental plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

3. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, or facilities providing emergency care pursuant to paragraph 86.15(2)*"b."*

4. Written consent is required for the transmission of the medical or dental records information of a former enrollee to any physician or dentist not connected with the health or dental plan.

5. The extent of medical or dental records information to be released in each instance shall be based upon a test of medical or dental necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical and dental records maintained by subcontractors shall meet the requirements of this rule.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each health or dental plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

(1) A list of providers of services under the plan.

(2) Encounter data on a monthly basis as required by the department.

(3) Other information as directed by the department.

c. Each health or dental plan shall at a minimum provide reports and health or dental plan information to the department as follows:

(1) Information regarding the plan's appeal process.

(2) A plan for a health improvement program.

(3) Periodic financial, utilization and statistical reports as required by the department.

(4) Time-specific reports which define activity for child health care, appeals and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered or other differences.

(5) Other information as directed by the department.

86.15(10) *Systems.* The participating health or dental plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

86.15(11) *Payment to the participating health or dental plan.*

a. In consideration for all services rendered by a health or dental plan, the health or dental plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical or dental care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the health or dental plan for risks assumed under the current or any previous contract. The health or dental plan accepts the rate as payment in full for the contracted services. Any savings realized by the health or dental plan due to lower utilization from a less frequent incidence of health or dental problems among the enrolled population shall be wholly retained by the health or dental plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical or dental expenses, it is the right and responsibility of the health or dental plan to investigate these third-party resources and attempt to obtain payment. The health or dental plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) *Quality assurance.* The health or dental plan shall have in effect an internal quality assurance system.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)*"c"* shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

441—86.17(514I) Use of donations to the HAWK-I program. If an individual or other entity makes a monetary donation to the HAWK-I program, the department shall deposit the donation into the HAWK-I trust fund. The department shall track all donations separately and shall not commingle the donations

with other moneys in the trust fund. The department shall report the receipt of all donations to the HAWK-I board.

86.17(1) If the donor specifically identifies the purpose of the donation, regardless of the amount, the donation shall be used as specified by the donor as long as the identified purpose is permissible under state and federal law.

86.17(2) If the donation is less than $5,000 and the donor does not specifically identify how it is to be used, the department shall use the moneys in the following order:

a. For the direct benefit of enrollees (e.g., premium payments).

b. For outreach activities.

c. For other purposes as determined by the HAWK-I board.

86.17(3) If the donation is more than $5,000 and the donor does not specify how the funds are to be used, the HAWK-I board shall determine how the funds are to be used.

441—86.18(505) Health insurance data match program. All carriers, as defined in Iowa Code section 514C.13, shall enter into an agreement with the department to provide data necessary to allow the department to comply with the mandate of Iowa Code section 505.25. Each carrier shall either:

1. Enter into and maintain an agreement with the department on Form 470-4435, HAWK-I Data Use Agreement; or
2. Provide proof of an existing agreement with the department or the department's designee.

441—86.19(514I) Recovery.

86.19(1) *Definitions.*

"Administrative error" means an action of the department or the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the department or the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

"Client error" means any action or inaction of the enrollee or the enrollee's representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because at least one of the following occurred:

1. The enrollee or the enrollee's representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. The enrollee or the enrollee's representative failed to timely report a change as defined in rule 441—86.10(514I).

86.19(2) *Amount subject to recovery from the enrollee or representative.* The department may recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a health or dental plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health or dental plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health or dental plan to a provider of medical or dental services are not subject to recovery from the enrollee regardless of the cause of the error.

86.19(3) *Notification.* The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

a. The name of the person for whom funds were incorrectly paid;

b. The period during which the funds were incorrectly paid;

c. The amount subject to recovery; and

d. The reason for the incorrect payment.

86.19(4) *Recovery.*

a. Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee's representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

b. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

c. Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

86.19(5) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8839B**, IAB 6/16/10, effective 8/1/10; **ARC 0552C**, IAB 1/9/13, effective 4/1/13; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.20(514I) Supplemental dental-only coverage.

86.20(1) *Definition.*

"Supplemental dental-only coverage" means dental care coverage provided to a child who meets the eligibility requirements for the HAWK-I program except that the child is covered by health insurance through an individual or group health plan.

86.20(2) *Eligibility.* Unless otherwise specified, eligibility for supplemental dental-only coverage shall be determined in accordance with the provisions of rules 441—86.1(514I) through 441—86.12(514I), 441—86.18(514I), and 441—86.19(514I).

86.20(3) *Premiums.* Premiums for participation in the supplemental dental-only plan are assessed as follows:

a. No premium is charged to families who meet the provisions of subparagraph 86.8(2)*"a"*(1) or to families whose countable income is less than 167 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology.

b. If the family's countable income is equal to or exceeds 167 percent of the federal poverty level but does not exceed 203 percent of the federal poverty level for a family of the same size, the premium is $5 per child per month with a $10 monthly maximum per family.

c. If the family's countable income exceeds 203 percent of the federal poverty level but does not exceed 254 percent of the federal poverty level for a family of the same size, the premium is $10 per child per month with a $15 monthly maximum per family.

d. If the family's countable income exceeds 254 percent of the federal poverty level for a family of the same size, the premium is $15 per child per month with a $20 monthly maximum per family.

e. If the family includes uninsured children who are eligible for both medical and dental coverage under HAWK-I and insured children who are eligible only for dental coverage, the premium shall be assessed as follows:

(1) The total premium shall be no more than the amount that the family would pay if all the children were eligible for both medical and dental coverage.

(2) If the family has one child eligible for both medical and dental coverage and one child eligible for dental coverage only, the premium shall be the total of the health and dental premium for one child and the dental premium for one child.

(3) If the family has two or more children eligible for both medical and dental coverage, no additional premium shall be assessed for dental-only coverage for the children who do not qualify for medical coverage under HAWK-I because they are covered by health insurance.

f. The provisions of subrules 86.8(3) to 86.8(6) and 86.8(8) apply to premiums specified in this subrule.

86.20(4) *Waiting lists*. Before the provisions of subrule 86.3(10) are implemented, all children enrolled in supplemental dental-only coverage shall be disenrolled from the program.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 2912C**, IAB 1/18/17, effective 3/1/17]

These rules are intended to implement Iowa Code chapter 514I as amended by 2009 Iowa Acts, Senate File 389.

[Filed emergency 12/23/98 after Notice 11/4/98—published 1/13/99, effective 1/1/99]
[Filed emergency 12/23/98—published 1/13/99, effective 1/1/99]
[Filed 2/17/99, Notice 1/13/99—published 3/10/99, effective 5/1/99]
[Filed emergency 3/22/99—published 4/7/99, effective 4/1/99]
[Filed 5/21/99, Notice 4/7/99—published 6/16/99, effective 8/1/99]
[Filed 9/21/99, Notice 8/11/99—published 10/20/99, effective 12/1/99]
[Filed emergency 1/31/00 after Notice 12/15/99—published 2/23/00, effective 2/1/00]
[Filed emergency 5/23/00—published 6/14/00, effective 7/1/00]
[Filed 8/30/00, Notice 6/14/00—published 9/20/00, effective 11/1/00]
[Filed 12/20/00, Notice 10/18/00—published 1/10/01, effective 3/1/01]
[Filed 9/19/01, Notice 8/8/01—published 10/17/01, effective 12/1/01]
[Filed 10/23/02, Notice 9/4/02—published 11/13/02, effective 1/1/03]
[Filed emergency 6/20/03—published 7/9/03, effective 7/1/03]
[Filed 10/23/03, Notice 7/9/03—published 11/12/03, effective 1/1/04]
[Filed emergency 12/16/03 after Notice 10/29/03—published 1/7/04, effective 1/1/04]
[Filed 7/1/04, Notice 5/12/04—published 7/21/04, effective 9/1/04]
[Filed emergency 10/19/04 after Notice 7/21/04—published 11/10/04, effective 11/1/04]
[Filed without Notice 5/4/05—published 5/25/05, effective 7/1/05]
[Filed 12/22/05, Notice 9/14/05—published 1/18/06, effective 3/1/06]
[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]
[Filed 2/20/08, Notice 11/21/07—published 3/12/08, effective 4/16/08]
[Filed emergency 4/8/08—published 5/7/08, effective 4/8/08]
[Filed 6/19/08, Notice 5/7/08—published 7/16/08, effective 9/1/08]
[Filed 10/21/08, Notice 7/30/08—published 11/19/08, effective 1/1/09]
[Filed ARC 7770B (Notice ARC 7635B, IAB 3/11/09), IAB 5/20/09, effective 7/1/09]
[Filed Emergency ARC 7881B, IAB 7/1/09, effective 7/1/09]
[Filed Emergency ARC 8127B, IAB 9/9/09, effective 9/1/09]
[Filed ARC 8109B (Notice ARC 7882B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
[Filed ARC 8281B (Notice ARC 8128B, IAB 9/9/09), IAB 11/18/09, effective 12/23/09]
[Filed ARC 8280B (Notice ARC 8110B, IAB 9/9/09), IAB 11/18/09, effective 1/1/10]
[Filed ARC 8478B (Notice ARC 8112B, IAB 9/9/09), IAB 1/13/10, effective 3/1/10]
[Filed Emergency After Notice ARC 8580B (Notice ARC 8279B, IAB 11/18/09), IAB 3/10/10, effective 3/1/10]
[Filed Emergency After Notice ARC 8838B (Notice ARC 8479B, IAB 1/13/10), IAB 6/16/10, effective 6/1/10]
[Filed ARC 8839B (Notice ARC 8581B, IAB 3/10/10), IAB 6/16/10, effective 8/1/10]
[Filed Emergency After Notice ARC 9083B (Notice ARC 8840B, IAB 6/16/10), IAB 9/22/10, effective 9/1/10]
[Filed Emergency After Notice ARC 9084B (Notice ARC 8841B, IAB 6/16/10), IAB 9/22/10, effective 9/1/10]
[Filed ARC 0552C (Notice ARC 0332C, IAB 9/19/12), IAB 1/9/13, effective 4/1/13]
[Filed ARC 0837C (Notice ARC 0747C, IAB 5/15/13), IAB 7/24/13, effective 10/1/13]
[Filed Emergency After Notice ARC 1287C (Notice ARC 1183C, IAB 11/13/13), IAB 1/8/14, effective 1/1/14]

[Filed ARC 2912C (Notice ARC 2784C, IAB 10/26/16), IAB 1/18/17, effective 3/1/17]

TITLE IX
WORK INCENTIVE DEMONSTRATION

CHAPTER 93
PROMISE JOBS PROGRAM

[Prior to 7/1/89, see 441—Chapters 55, 59 and 90]

PREAMBLE

This chapter implements the promoting independence and self-sufficiency through employment, job opportunities, and basic skills (PROMISE JOBS) program. The PROMISE JOBS program is designed to assist family investment program (FIP) recipients to become self-sufficient. Unless exempt, each FIP applicant must develop a family investment agreement (FIA) that outlines steps the applicant will take to leave public assistance and must cooperate with the terms of the agreement as a condition for receiving FIP as directed in Iowa Code chapter 239B. Rules regarding FIP eligibility requirements, including participation in the PROMISE JOBS program, are found in 441—Chapter 41.

The PROMISE JOBS program also implements the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Title I, "Block Grants for Temporary Assistance for Needy Families (TANF)," which was reauthorized on February 8, 2006, through the Deficit Reduction Act of 2005, Public Law 109-171.

441—93.1(239B) Definitions.

"Applicant" means a child for whom assistance is being requested under the family investment program, any parent living in the home with the child, and any nonparental relative as defined in 441—subrule 41.22(3) who is requesting assistance for the child.

"FaDSS" means the family development and self-sufficiency program operated under 441—Chapter 165, which provides services to families at risk of long-term welfare dependency.

"Family investment agreement" or *"FIA"* means the agreement developed with a participant in accordance with Iowa Code section 239B.8.

"FIA-responsible person" means any member of the FIP applicant family unless exempt as described at 441—subrule 41.24(2). See subrule 93.4(2) for more information.

"FIP" means the family investment program authorized in Iowa Code chapter 239B.

"Limited benefit plan" or *"LBP"* means a period of time in which a participant or member of a participant's family is either ineligible for any assistance under the family investment program or eligible for reduced assistance only in accordance with Iowa Code section 239B.9.

"Needy specified relative" means a nonparental specified relative as defined in 441—subrule 41.22(3) who meets all the eligibility requirements to be included in the family investment program.

"Participant" for purposes of the PROMISE JOBS program means a person who has signed an FIA and is approved to receive FIP benefits, a parent or relative living in the home of a child approved to receive FIP benefits, or a person reconsidering a subsequent limited benefit plan.

"PROMISE JOBS program" means the promoting independence and self-sufficiency through employment, job opportunities, and basic skills program created in Iowa Code section 239B.17.

441—93.2(239B) Program administration. The department of human services shall administer an employment and training program known as PROMISE JOBS. To the extent compatible with resources available, the department's bureau of refugee services shall provide PROMISE JOBS services to persons who entered the United States with refugee status until those persons obtain United States citizenship.

93.2(1) *Availability of service.* PROMISE JOBS services shall include, but are not limited to, those listed in paragraph 93.4(4)*"b."*

a. The program shall be available statewide. If the department of human services determines that sufficient funds are not available to offer services on location in each county, the department shall prioritize the availability of services to those counties having the largest FIP populations.

b. Because of state and federal budgetary limitations, federal mandatory work requirements, requirements for minimum participation rates, and other TANF requirements imposed on the PROMISE JOBS program, the department of human services shall have the administrative authority to:

(1) Determine agency and geographical breakdowns for service;

(2) Designate specific groups for priority services; and

(3) Designate specific PROMISE JOBS components or supportive service levels for a waiting list.

93.2(2) *Contracts with provider agencies.* The department of human services may contract with the department of workforce development, the department of economic development, or other appropriate entity to provide PROMISE JOBS services and case management of those services.

a. Reimbursement for services. The provider agency shall receive financial reimbursement as specified in contracts negotiated with each agency. Contracts shall also specify in detail the expenses that are not eligible for reimbursement.

b. Record keeping. All PROMISE JOBS agencies shall maintain PROMISE JOBS participant case files and records for at least three years, in either paper or electronic format. Records shall be maintained for longer than three years if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained for three years after the litigation, audit, or claim is resolved. Case files must be disposed of in accordance with applicable federal requirements pertaining to confidentiality.

c. Confidentiality. The departments of education, workforce development, economic development, and human rights, local education agencies, and all subcontractor provider agencies shall safeguard participant information in conformance with Iowa Code section 217.30. The department of human services and the PROMISE JOBS provider agencies may disclose participant information to other state agencies or to any other entity when that agency or entity must have that information in order to provide services to PROMISE JOBS participants that have been determined to be necessary for successful participation in PROMISE JOBS.

[**ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.3(239B) Registration and referral.

93.3(1) *Registration for PROMISE JOBS.* Unless the department of human services determines a person is exempt as specified in 441—subrule 41.24(2), an application for FIP assistance constitutes a registration for the PROMISE JOBS program and acceptance of the requirement to enter into an FIA for all members of the FIP case and all other persons responsible for the FIA as specified at rule 441—41.24(239B).

93.3(2) *Referral.* The department of human services shall refer all FIA-responsible persons from FIP applicant and participant households to PROMISE JOBS pursuant to 441—subrule 41.24(4).

93.3(3) *Initial appointment.*

a. FIP applicants. FIP applicants, including those who are in a limited benefit plan, shall be offered an appointment with the PROMISE JOBS provider agency for assessment and FIA development at the earliest available time. The provider agency shall make sufficient appointment times available to allow the applicant to be scheduled no later than ten calendar days after the date of the notice that FIA responsibility has begun, as required by rule 441—93.4(239B) and 441—paragraphs 41.24(1)*"c,"* 41.24(1)*"d,"* and 41.24(10)*"g."*

b. Exempt status change. Persons who become FIA-responsible while receiving FIP shall initiate PROMISE JOBS orientation and FIA development by contacting the appropriate PROMISE JOBS office to schedule an appointment within ten calendar days of the mailing date of the letter explaining that exempt status has been lost and FIA responsibility has begun, as required by 441—subrule 41.24(5). If the person fails to schedule an appointment or fails to appear for an appointment, PROMISE JOBS shall send one written reminder that informs the person that those who do not develop a family investment agreement shall enter into a limited benefit plan. If the person fails to schedule an appointment within

ten calendar days of the reminder letter or fails to appear for an appointment scheduled after the reminder is sent, the person shall enter into a limited benefit plan as described at 441—paragraph 41.24(8)*"c."*

93.3(4) *Orientation.* Every person referred to PROMISE JOBS shall receive orientation services. PROMISE JOBS workers shall provide FIA orientation if not previously provided by the department of human services.

a. During orientation, each applicant shall receive a full explanation of:

(1) The advantages of employment under the family investment program (FIP), including information on earned income tax credits;

(2) Services available under PROMISE JOBS;

(3) Participant rights and responsibilities under the FIA and PROMISE JOBS;

(4) The limited benefit plan as described at 441—subrule 41.24(8);

(5) The benefits of cooperation with the child support recovery unit;

(6) Other programs available through the department of human services, specifically the transitional Medicaid and child care assistance programs; and

(7) The availability of family planning counseling services in the area and the financial implications of newly born children on the participant's family.

b. Each applicant shall sign Form 470-3104, Your FIA Rights and Responsibilities, acknowledging that information described in paragraph *"a"* of this subrule has been provided.

93.3(5) *Initial meeting.* The PROMISE JOBS worker shall meet with each referred person, or with the family if another parent or a child is also referred to PROMISE JOBS, to:

a. Determine participation activities,

b. Establish expenses and a schedule for supportive payments, and

c. Discuss child care needs.

93.3(6) *Workforce development registration.* Each applicant is required to complete a current workforce development registration form as described at 877—subrule 8.2(3) when requested by the PROMISE JOBS worker.

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14]

441—93.4(239B) The family investment agreement (FIA). The family investment agreement (FIA) is the condition of and basis for PROMISE JOBS services and is an eligibility requirement for the family investment program as specified in rule 441—41.24(239B).

93.4(1) *Development.* An initial FIA shall be developed during the orientation and assessment process through discussion between the FIA-responsible person and the PROMISE JOBS worker. For the FIA to be considered completed, Form 470-3095, Family Investment Agreement, and Form 470-3096, FIA Steps to Achieve Self-Sufficiency, shall be signed by all of the following:

a. The FIA-responsible person or persons.

b. Other family members who are referred to PROMISE JOBS.

c. The PROMISE JOBS worker.

d. The PROMISE JOBS supervisor.

93.4(2) *FIA-responsible persons.* All members of the FIP applicant family shall develop and sign an FIA, unless exempt as described at 441—subrule 41.24(2). When an FIA-responsible person is incompetent or incapacitated, someone acting responsibly on that person's behalf may participate in the interview. Responsibility for carrying out the steps of the FIA ends at the point that FIP assistance is not provided to the participant or when a participant becomes exempt.

a. Parents. All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA. Parents of any age are exempt only if they are receiving Supplemental Security Income (SSI) or they do not meet citizenship requirements. When the FIP eligible group includes a minor parent living with one or both parents or a needy specified relative who receives FIP, as described at 441—subparagraph 41.28(2)*"b"*(2), and none is exempt from PROMISE JOBS participation, each parent or needy specified relative is responsible for a separate FIA.

b. Teens. Persons aged 16 to 19 shall be responsible for signing and carrying out the activities of the FIA unless they are receiving Supplemental Security Income (SSI) or they attend school full-time.

(1) When the FIP-eligible group includes one or both parents or a needy specified relative and a child or children and none is exempt from PROMISE JOBS participation, all shall be asked to sign one FIA with the family and to carry out the activities of that FIA rather than signing separate FIAs. Copies of the FIA shall be placed in each individual case file.

(2) When the FIP-eligible group includes one or both parents or a needy specified relative who is exempt from PROMISE JOBS participation and a child or children who are not exempt, each child is responsible for completing a separate FIA.

(3) A minor nonparental specified relative who is not exempt and whose needs are included in the FIP grant shall be responsible for signing and carrying out the activities of the FIA.

c. Other adults. All other adults who are not exempt and whose needs are included in the FIP grant shall be responsible for signing and carrying out the activities of the FIA.

93.4(3) *FIA content.* The FIA shall include the goals of the family for achieving self-sufficiency and shall establish a time frame with a specific ending date, during which the family expects to become self-sufficient and after which FIP benefits will be terminated. For individuals and families with acknowledged barriers, one or more incremental FIAs may be written.

a. All FIAs shall:

(1) Outline the expectations of the PROMISE JOBS program and of the family;

(2) Clearly establish interim goals and FIA activities necessary to reach long-term goals and self-sufficiency;

(3) Identify barriers to participation so that the FIA may include a plan, appropriate referrals, and supportive services necessary to eliminate or manage the barriers;

(4) Stipulate specific services to be provided by the PROMISE JOBS program, including child care assistance, transportation assistance, family development services, and other supportive services;

(5) Include the participant's responsibility to provide verification of hours of participation, and how and when the verification shall be submitted;

(6) Record a participant's response to the option of referral for family planning counseling as described at subrule 93.9(3).

b. Plans from other agencies. The FIA may incorporate a self-sufficiency plan that the family has developed with another agency or person, such as, but not limited to, Head Start, public housing authorities, child welfare workers, vocational rehabilitation, and FaDSS grantees, subject to the following requirements:

(1) The participant shall authorize PROMISE JOBS to obtain the self-sufficiency plan and to arrange coordination with the manager of the self-sufficiency plan by signing Form 470-0429, Consent to Obtain and Release Information.

(2) The self-sufficiency plan may be included in the participant's FIA if the self-sufficiency plan meets the requirements of this chapter and is deemed by the PROMISE JOBS worker to be appropriate to the family circumstances.

93.4(4) *Participation requirements.* The FIA shall require the FIA-responsible persons and family members who are referred to PROMISE JOBS to choose participation in one or more activities as described in this subrule.

a. Goals. It is expected that employment leading to economic self-sufficiency is the eventual goal of the FIA.

(1) To the maximum extent possible, the FIA shall reflect the goals of the family, subject to program rules; funding; the capability, experience, and aptitudes of family members; and the potential market for the job skills currently possessed or to be developed.

(2) The program goal for all participants is to be involved in PROMISE JOBS activities on a full-time basis unless barriers prohibit this level of involvement. "Full-time" is considered as an average of at least 30 hours per week. Exceptions to full-time involvement are identified in rule 441—93.14(239B) and subrule 93.4(5).

b. Activities. Except as specified in paragraph 93.4(4)*"c,"* PROMISE JOBS activities may include, but are not limited to, any combination of the following activities:

(1) Orientation as described in subrule 93.3(4).

(2) Assessment as described in rule 441—93.5(239B).

(3) Job readiness activities, including job club, individual job search, workplace essentials training, mental health treatment, substance abuse treatment, or other rehabilitative activities, as described in rule 441—93.6(239B).

(4) Work activities, including part-time or full-time employment, self-employment, on-the-job training, work experience, or unpaid community service as described in rule 441—93.7(239B).

(5) Educational activities, including high school completion, high school equivalency diploma (HSED) certification, adult basic education (ABE), English as a second language (ESL) training, vocational training, or postsecondary training up to and including a baccalaureate degree, as described in rule 441—93.8(239B).

(6) Parenting skills training as described in subrule 93.9(1).

(7) Participation in the family development and self-sufficiency program (FaDSS) or other family development programs as described in subrule 93.9(2).

(8) Referral for family planning counseling as described in subrule 93.9(3).

(9) Services provided by other agencies.

c. FIA activities for participants aged 16 to 19. Development of FIA activities shall follow these guidelines for participants aged 16 to 19.

(1) Participants aged 16 to 19 who are not parents and who have not completed high school shall be strongly encouraged to participate in educational activities to obtain a high school diploma or the equivalent. A high school education is recognized as important to achieving self-sufficiency. Participants shall be given information on the earning power of people with a high school education compared to those who do not so that participants are able to make an informed choice. If high school or high school equivalency completion is not included in a teenager's FIA, other FIA activities shall be required. High school or high school equivalency completion shall be proposed and reconsidered at the next FIA review.

(2) Parents under the age of 18 who are not married and who have not completed high school shall be expected to use enrollment or continued attendance in high school or involvement in a high school equivalency program as a first step in the FIA, except when the parent is deemed incapable of participating in these activities by the local education agency.

(3) Parents aged 19 and younger shall include parenting skills training as described at subrule 93.9(1) in their FIA or the case file shall include documentation that this requirement has been fulfilled.

(4) Unmarried parents aged 17 and younger who do not live with a parent or legal guardian shall include FaDSS, as described at 441—Chapter 165, or other family development services, as described in subrule 93.9(2), in the FIA. The FaDSS or other family development services shall continue after the parent reaches the age of 18 only when the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

d. Waiting lists. The department of human services reserves the authority to prioritize services to FIP applicants and participants in the order that best fits the needs of FIP applicants and recipients and of the PROMISE JOBS program. Participants who are placed on a waiting list for a PROMISE JOBS component shall include other appropriate activities in the FIA while waiting unless family circumstances indicate otherwise.

(1) Persons shall be removed from these waiting lists and placed in components at the discretion of state-level PROMISE JOBS administrators in order to help participants achieve self-sufficiency in the shortest possible time, meet budgetary limitations, enable participants to make maximum use of other programs, fulfill the federal minimum participation rate requirements, and meet other TANF requirements.

(2) Persons who were enrolled in approved postsecondary training at the time of FIP cancellation shall not be placed on a postsecondary training waiting list if the participant is still satisfactorily participating in approvable training at the time that FIP eligibility is regained.

e. Unavailability of funding. If funding for the PROMISE JOBS activities included in a participant's FIA or required supportive payments are not available, the participant's FIA shall be renegotiated to include different activities.

93.4(5) *Barriers to participation.* Problems with participation of a permanent or long-term nature shall be considered barriers to participation and shall be identified in the FIA as issues to be resolved or managed so that maximum participation can result.

a. Barriers defined. Barriers to participation shall include, but not be limited to, the following:

(1) Child or adult care needed before a person can participate or take a job is not available. Participants are not required to do any activity unless suitable child or adult care has been arranged.

(2) Lack of transportation.

(3) Substance addiction.

(4) Sexual or domestic abuse history.

(5) Overwhelming family stress.

(6) Physical or cognitive disability or mental illness.

b. Inclusion in FIA.

(1) When barriers are identified during assessment, removal or management of the barrier shall be part of the FIA from the beginning.

(2) When barriers are revealed by the applicant or participant during the FIA development or are identified by problems that develop after the FIA is signed, the FIA shall be renegotiated and amended to provide for removal or management of the barriers.

(3) In limited instances where special-needs care for a child or adult is not available, it may be most practical for the participant to develop the FIA to identify providing the care as part of the FIA.

c. Cooperation with removing or managing barriers.

(1) Applicants. An FIA-responsible applicant who chooses not to cooperate in removing or managing barriers to participation identified during FIA development shall be denied FIP.

(2) Participants. A participant who chooses not to cooperate in removing or managing identified barriers to participation shall be considered to have chosen the limited benefit plan. If the participant claims a cognitive or physical disability or mental illness that is expected to last for more than 12 consecutive months, the participant is required to apply for Social Security Disability and Supplemental Security Income benefits. When the participant refuses to apply for those benefits, the FIP household is ineligible for FIP as described at 441—subrule 41.27(1), and the limited benefit plan does not apply.

93.4(6) *Failure to complete an FIA.*

a. FIP applicants. An applicant's failure to develop or sign an FIA shall result in denial of the family's application for FIP assistance, as described at 441—paragraphs 41.24(4)*"a," "b"* and *"c."*

b. FIP participants. FIP participants who choose not to enter into an FIA or who choose not to continue its activities after signing an FIA shall enter into the limited benefit plan (LBP) as described at 441—subrule 41.24(8).

93.4(7) *Progress reviews.* The PROMISE JOBS worker shall review all FIAs at least once every six months. Progress reviews do not have to be face-to-face interviews but must include verbal contact with and input from at least one family member. FIA goals, Form 470-3096, FIA Steps for Achieving Self-Sufficiency, and, if appropriate, the needs for child care, transportation, and other supports shall be reviewed for continued appropriateness.

93.4(8) *Renegotiation.*

a. The FIA shall be renegotiated to reflect a new plan for self-sufficiency if:

(1) The participant has participated satisfactorily in the current FIA activities but is not self-sufficient by the end date specified in the FIA; or

(2) The participant demonstrates effort in carrying out the steps of the FIA but is unable to participate satisfactorily in the current FIA activities due to a barrier as described at subrule 93.4(5); or

(3) The participant's circumstances change to such an extent that the current FIA activities are no longer appropriate.

b. Participants who choose not to cooperate in the renegotiation process when requested by PROMISE JOBS shall be considered to have chosen the limited benefit plan.

93.4(9) *Reinstatement.* When a participant who has signed an FIA loses FIP eligibility and has not become exempt from PROMISE JOBS at the time of FIP reapplication, the contents of the original FIA and the participant's responsibility for carrying out the steps of that FIA may be reinstated when the steps

of the FIA fit the family's current circumstances. The FIA shall be renegotiated and amended if needed to accommodate changed family circumstances.
[**ARC 1146C**, IAB 10/30/13, effective 1/1/14; **ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.5(239B) Assessment. The purpose of assessment is to provide an evaluation of the FIP applicant or participant family that furnishes a basis for the PROMISE JOBS worker to determine: (1) family members' employability and educational potential, so that participants can make well-informed choices; and (2) the services that will be needed for the family to achieve self-sufficiency, so that the worker can provide appropriate guidance.

93.5(1) *Initial assessment.* All persons referred to PROMISE JOBS shall complete an initial assessment, which shall be used to develop the initial FIA. The PROMISE JOBS worker shall meet individually with FIA-responsible persons who are referred to PROMISE JOBS to develop the FIA.

a. Self-assessment. The participant may either fill out Form 470-0806, Self-Assessment, before the meeting or fill the form out during the meeting with assistance from the PROMISE JOBS worker. The results from self-assessment shall be used to assist in identifying the applicant's needs.

b. Scope of initial assessment. The initial assessment meeting, at a minimum, shall review the family's financial situation, family profile and goals, employment background, educational background, housing needs, child care needs, transportation needs, health care needs, family-size assessment and the participant's wishes regarding referral to family planning counseling, and other barriers which may require referral to entities other than PROMISE JOBS for services.

93.5(2) *Additional assessments.* Additional assessments may include, but are not limited to, literacy and aptitude testing, educational level and basic skills assessment, evaluation of job interests or job skills, occupation-specific assessment or testing, or an evaluation of past pertinent information. An additional assessment may be used by mutual agreement between the PROMISE JOBS worker and the participant as a tool and to help explore possible FIA development. For a specific additional assessment to be required, completion of the assessment must be specified in the FIA.

a. Additional information on applicants. If information identified during the initial assessment indicates that further information is needed to help the participant and PROMISE JOBS worker identify appropriate FIA activities and level of involvement, the applicant shall complete additional assessments as determined by the PROMISE JOBS worker. Completion of this assessment may be the first step in the initial FIA.

b. Medical examination. The PROMISE JOBS worker may require a person to complete a medical examination before including a particular PROMISE JOBS activity in the FIA when a participant specifies or exhibits any condition that might jeopardize successful participation in the program. The worker shall ask the health practitioner to indicate to the best of the practitioner's knowledge whether the person is capable of completing the FIA activity or continuing with appropriate employment.

c. Rehabilitation assessments. At any time during the assessment process or as more information is revealed, a referral may be made for professional assessments in physical health, mental health, substance abuse, or other rehabilitative services.

d. Additional information on participants. Assessments may be completed or redone at any time throughout the development and duration of the FIA if the information is needed to help the participant and the PROMISE JOBS worker make decisions concerning the type or level of the participant's involvement in PROMISE JOBS activities.

93.5(3) *Postsecondary educational evaluation.* Participants who wish to include postsecondary education in their FIA shall complete an educational evaluation to determine the likelihood of success.

a. Request for education resulting in a vocational certificate or certificate of completion. Vocational certificate or certification of completion training programs offer short-term training in a specific vocational area. Examples include, but are not limited to: nurse aid certification, training to receive a commercial driver's license, training in information technology, health care services, and child care services. The PROMISE JOBS worker shall determine the likelihood of success using the following types of tools or information:

(1) A review of information from past training situations,
(2) Past job performance in comparable positions,
(3) Basic skills tests,
(4) Career-specific assessments,
(5) A specific standardized test, or
(6) Other key historical information.

b. Request for education resulting in an associate or baccalaureate degree. The PROMISE JOBS worker shall determine the likelihood of academic success through an educational evaluation. The evaluation may include use of the following types of tools or information:

(1) Standardized assessments in reading comprehension, math, and writing skills, such as GATB (General Aptitude Test Battery), Kuder Skills Assessment, or CASA (Comprehensive Adult Student Assessment) system;
(2) Occupation-specific skills assessments;
(3) Interest inventories;
(4) Current or past grades; and
(5) Other pertinent historical information.

c. Documenting educational evaluation results. When a participant has requested education to be included in the FIA, the PROMISE JOBS worker shall document:

(1) What formal assessments were completed, if any, and what the results were;
(2) What other information was reviewed;
(3) How the evaluation information was used by the PROMISE JOBS worker in either approving or denying the inclusion of education in the participant's FIA; and
(4) Whether the request is approved or denied. If the request is denied, PROMISE JOBS shall issue Form 470-0602, Notice of Decision: Services, to the participant as required in paragraph 93.10(1)*"b."*

93.5(4) *Substituting or supplementing an assessment.*

a. Substituting assessment information. If the FIA-responsible person's mental status, physical status, and life situation have not changed significantly, comparable assessment information completed with another agency or person within the past two years may be used instead of performing new assessments.

(1) Examples of agencies or persons that may complete comparable assessment information include, but are not limited to, the department of workforce development, Head Start, public housing authorities, child welfare workers, vocational rehabilitation services, an educational institution or testing service, or family development services.
(2) The FIA-responsible person may authorize PROMISE JOBS to obtain these assessment results by signing Form 470-0429, Consent to Obtain and Release Information.

b. Supplementing assessment information. In order to ensure that the family investment agreement activities do not conflict with any case plans that have already been established for the family, the FIA-responsible person may:

(1) Supplement assessment information, and
(2) Establish communication between the PROMISE JOBS worker and other agencies or persons.

c. Use of key historical information. When key historical information, such as a review of the participant's job history or past training outcomes, relays a clear picture of the participant's skills and abilities, a formal, standardized educational assessment may not be needed.

(1) If a participant is currently enrolled in or has been enrolled in comparable training or an academic program in the past two years, the evaluation of the participant's performance, including grades received, may be substituted for a formal, standardized educational assessment.
(2) When using historical information as an indicator of future success, changes in the participant's mental status, physical status, life circumstances, and motivation shall be given consideration.

93.5(5) *Assessment after FIP cancellation or limited benefit plan.* FIP participants who previously participated in either a basic or additional assessment and then were canceled from FIP or entered a limited benefit plan may be required to complete an assessment again when the PROMISE JOBS worker determines that updated information is needed for development or amendment of the FIA.

93.5(6) *Participants with FaDSS services only.* For participants with FaDSS services as the only activity in their FIA, the PROMISE JOBS worker shall use information provided by the FaDSS worker to help assess when a participant is ready to participate in other PROMISE JOBS activities. The PROMISE JOBS worker may require additional assessments to be completed if more information is needed to decide the type or level of the participant's involvement in other PROMISE JOBS activities.

93.5(7) *Documenting participation.* The participant shall provide documentation of participation in assessments as described at subrule 93.10(2). Persons who miss any portion of a scheduled assessment may be required to make up the missed portion, based on worker judgment and participant needs.

93.5(8) *Supportive payments allowed.* Except for assessment activities that occur on the same day as orientation, persons participating in assessment activities are eligible for payments for transportation and child care needed to allow the scheduled participation as described at rule 441—93.11(239B). When make-up sessions are required, the participant shall not receive an additional transportation payment, but necessary child care shall be paid.

93.5(9) *Failure to complete assessment.* Participants who do not complete assessments that are written into their FIA shall be considered to have chosen the limited benefit plan unless they have good cause. Procedures at 441—93.14(239B) shall apply.

441—93.6(239B) Job readiness and job search activities. Job readiness and job search activities include job club, job search, workplace essentials training, substance abuse treatment, mental health treatment, and other rehabilitation activities. The participant and the PROMISE JOBS worker shall incorporate into the FIA the job readiness and job search activities that are appropriate for the goals, work history, skill level, and life circumstances of the participant.

93.6(1) *Job club.* Job club prepares participants to search for work. Job club consists of training in job-seeking skills and structured job search.

a. Delivery of services. Job club is provided over a consecutive three-week period. Each week consists of 30 hours of structured activity.

(1) Generally, the first week of job club consists of job-seeking skills training and the next two weeks consist of structured group job search.

(2) Based on local office need and resources, the 30 hours of job-seeking skills training may be completed over the first two weeks when the hours not spent in job-seeking skills training are spent in structured job search. The total time spent in each of the two weeks must meet the 30-hour requirement. The third week of job club is 30 hours of structured group job search.

b. Job-seeking skills training. Job-seeking skills training may include but is not limited to:

(1) Résumé development;
(2) Writing application and follow-up letters;
(3) Completing job applications and interest and skills assessments;
(4) Job retention skills;
(5) Motivational exercises;
(6) Identifying and eliminating employment barriers;
(7) Self-marketing;
(8) Finding job leads;
(9) Obtaining interviews;
(10) Use of telephones for job seeking;
(11) Interviewing skills; and
(12) Financial education.

c. Structured job search. A written plan shall be developed with each participant using Form 470-4481, Job Search Plan Agreement, indicating the number of job search hours required depending on family circumstances and other component activities listed on the participant's FIA. Structured job search includes daily reporting to the job search site to access resources for job leads.

d. Attendance. Daily attendance is required during both the job-seeking skills training and structured job search. Participants who miss any portion of the job-seeking skills training or structured

job search may be required to either make up the missed portion of the sessions or to retake the entire week of training based on practical worker judgment and participant need.

(1) Participants who obtain employment are required to continue the job-seeking skills training unless the scheduled job club hours conflict with the scheduled hours of employment.

(2) Participants who obtain employment averaging 30 hours or more per week may discontinue the structured job search portion of job club.

(3) Participants who obtain employment averaging 20 hours per week or more but less than 30 hours per week may discontinue the structured job search portion of job club if part-time employment was the FIA goal or the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.

(4) Participants who obtain employment averaging less than 20 hours per week shall continue the structured job search portion of job club unless the scheduled job club hours conflict with the scheduled hours of employment. The participant may be required to participate in other FIA activities during the hours that do not conflict with work hours.

e. Supportive payments allowed. Child care and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in job club. The transportation payment shall be paid in full at the start of participation.

(1) Participants who must repeat the job-seeking skills training or structured job search because of absence due to reasons as described at rule 441—93.14(239B) shall receive an additional transportation payment as described at subrule 93.11(3) for each day that must be repeated and a child care payment for needed child care. This rule applies only when the participant will have transportation costs that exceed the participant's original payment because of repeating a portion of job club.

(2) Participants who must repeat job-seeking skills training or structured job search as a result of absences due to reasons other than those described at rule 441—93.14(239B) shall not receive an additional transportation payment.

f. Documenting job club participation. Participants shall provide documentation of job search activities as described at subrule 93.10(2).

g. Failure to participate in job club activities. Participants who without good cause do not appear for scheduled job club activities or who fail to complete or document and submit job search contacts according to their written plan shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.6(2) *Individual job search.* Individual job search shall be available to all participants, particularly those who have recent ties with the workforce, have successfully removed or reduced barriers to work, or have completed job club or training and are now ready to work. If after three calendar months the participant still has not found employment, the worker shall review the participant's situation for possible barriers to employment or possible need for training to increase the participant's employability. Job search may continue if appropriate, but linking with other activities should be considered.

a. Job search plan. In consultation with the PROMISE JOBS worker, the participant shall design and provide a written plan of the individual job search activities on Form 470-4481, Job Search Plan Agreement. The plan shall:

(1) Contain a designated period for job search not to exceed five weeks ending on a Friday within the same calendar month and the specific methods for finding job openings.

(2) Specify the number of hours to be committed for each week of the designated period so as to provide the most effective use of transportation funds.

(3) Specify due dates for providing documentation of job search activities.

(4) Contain information as specific as possible about areas of employment interest, employers to be contacted, and other pertinent factors.

b. Supportive payments allowed. Child care and transportation payments shall be provided as described at rule 441—93.11(239B) when needed for participation in individual job search. The transportation payment shall be paid in full at the start of each designated period of the individual

job search. Transportation payments for any missed days of job search activity shall be subject to transportation overpayment policies as described at subrule 93.11(3).

c. Documenting job search participation. The participant shall document the actual hours spent on job contacts and other job search activities. Participant documentation shall be provided as described at subrule 93.10(2).

d. Failure to participate in individual job search. Participants who without good cause do not complete the steps of the written plan of the individual job search shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.6(3) *Unplanned job opportunity.* PROMISE JOBS participants who have an unplanned opportunity to interview or apply for a job shall be encouraged to take advantage of the opportunity.

a. Supportive payments allowed. Child care and transportation payments needed to make an unplanned job contact shall be provided as described at rule 441—93.11(239B) when the following conditions are met:

(1) The participant has a signed FIA,

(2) The job contact is an in-person contact to complete an application or to attend an interview, and

(3) The participant provides documentation as described in paragraph *"b"* of this subrule. Payment shall be issued after documentation is received.

b. Documenting participation. The participant shall provide documentation of the actual time spent making the specific job contact. Documentation shall be provided as described at subrule 93.10(2).

c. Limited benefit plan. A limited benefit plan does not apply when a participant fails to complete a job contact that is not part of a structured or individual job search plan.

93.6(4) *Workplace essentials.* The workplace essentials component consists of soft skills and life-skills training.

a. Delivery of services. Workplace essentials training is one 30-hour week in duration. Based on local office need and resources, the 30 hours may be completed over a two-week period. For the remainder of the 30 participation hours required in each week, participants must engage in other PROMISE JOBS activities.

b. Content. Workplace essentials training may include but is not limited to:

(1) Identifying and setting goals.
(2) Self-esteem building.
(3) Emotional awareness.
(4) Relationship management.
(5) Conflict-resolution skills.
(6) Problem-solving skills.
(7) Decision-making skills.
(8) Time-management skills.
(9) Team-building skills.
(10) Networking skills.
(11) Listening skills.
(12) Positive thinking.
(13) Priority setting.
(14) Appropriate workplace behaviors.
(15) Cultural sensitivity.
(16) Workplace expectations.
(17) Stress management.

c. Supportive payments allowed. Child care and transportation payments shall be provided as described at rule 441—93.11(239B) when needed to participate in workplace essentials.

d. Documenting participation. The PROMISE JOBS worker shall verify and document each participant's monthly hours of actual participation in workplace essentials. Participant documentation shall be provided as described at subrule 93.10(2).

e. Failure to participate in workplace essentials. Participants who without good cause do not complete workplace essentials as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.6(5) *Substance abuse treatment, mental health treatment, and other rehabilitative activities.* Substance abuse or mental health treatment or other rehabilitative activities are available when needed for a participant to be successful in participating in other FIA activities.

a. Treatment determination. The need for treatment or rehabilitative activities must be determined by a qualified medical professional, substance abuse professional, or mental health professional. The qualified professional must document that treatment or rehabilitative activities are needed for the participant to obtain or retain employment.

b. Supportive payments allowed. Transportation and child care payments as described at rule 441—93.11(239B) are available for participating in substance abuse treatment, mental health treatment, or other rehabilitative activities when specified in the FIA.

c. Documenting participation. The service provider shall verify actual hours of participation in treatment. Documentation of participation shall be provided as described at subrule 93.10(2).

d. Failure to participate in treatment or other rehabilitative activities. Participants who without good cause do not participate in substance abuse treatment, mental health treatment, or other rehabilitative activities as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14]

441—93.7(239B) Work activities. Work activities include full-time employment, part-time employment, self-employment, on-the-job training, work experience placement, and unpaid community service. The participant and the PROMISE JOBS worker shall incorporate into the FIA employment activities that are appropriate for the work history, skill level, and life circumstances of the participant. If the FIA activity is so hazardous that safety glasses, hard hats, or other safety equipment is needed, participation shall not be arranged or approved unless these safety precautions are available.

93.7(1) *Full-time or part-time employment.* FIAs may include full-time employment or part-time employment. Employment that does not lead to economic self-sufficiency may be included in the FIA only if the employment situation leads to better employment opportunities through building work skills and work history. See subrule 93.7(2) for additional policies applicable to self-employment.

a. Full-time employment. The goal for all participants is to participate in full-time employment. "Full-time employment" is defined as being employed an average of 30 or more hours per week.

(1) Persons who have not achieved self-sufficiency through full-time employment before the end date of the FIA may have the FIA extended.

(2) Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the limited benefit plan.

b. Part-time employment. Part-time employment is defined as being employed an average of less than 30 hours per week. An FIA that includes part-time employment shall also include participation in other PROMISE JOBS activities, including additional part-time employment, unless barriers to participation exist as defined in rule 441—93.14(239B) and subrule 93.4(5).

c. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care payments shall be provided when needed as described at rule 441—93.11(239B).

d. Verification of employment hours. Participants must provide verification of employment hours as described at subrule 93.10(2).

e. Failure to provide verification. Failure to provide verification of work hours after receiving a written reminder will result in a limited benefit plan.

f. Failure to maintain employment. A participant who without good cause does not maintain employment as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.7(2) *Self-employment.*

a. Calculation of hours. Hours of participation for persons who are self-employed shall be calculated using actual gross income less business expenses divided by the federal minimum wage. PROMISE JOBS shall use the same income as used for FIP eligibility and benefits.

(1) Participants with self-employment income that equates to 30 or more hours per week are considered to be working full-time.

(2) Participants with self-employment income that equates to less than 30 hours per week are considered to be working part-time.

b. Review of participation. The PROMISE JOBS worker shall review calculated hours:

(1) When income changes, or

(2) At least once every six months.

c. Progress toward self-sufficiency. At the participant's FIA review, the participant's progress is determined by noting incremental increases in income and calculated work hours. In order to maintain self-employment as the only FIA activity, participants must:

(1) Reach full-time employment as defined in subparagraph 93.7(2)*"a"*(1), or

(2) Show progress toward self-sufficiency.

d. Requiring other FIA activities. When a participant has been self-employed for more than 12 months and has not shown progress toward self-sufficiency, the FIA shall include the part-time self-employment in combination with participation in other PROMISE JOBS activities, unless barriers to participation exist as described in subrule 93.4(5).

(1) The other activities could include additional part-time employment.

(2) When the determination that a participant has not shown progress toward self-sufficiency is made after the initial FIA is developed, the FIA shall be renegotiated to include the other PROMISE JOBS activities. Participants who choose not to enter into the FIA renegotiation process shall enter into a limited benefit plan as described in 441—subrule 41.24(8).

e. Supportive payments allowed. Transportation expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care payments shall be provided when needed as described at subrule 93.11(2).

f. Documenting participation. Hours of participation in self-employment shall be calculated as specified in paragraph 93.7(2)*"a"* and documented in the case file. Participant documentation shall be provided as described at subrule 93.10(2).

g. Failure to maintain employment. Participants who without good cause do not maintain employment as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.7(3) *On-the-job training.*

a. Definition. "On-the-job training" is defined as training in the public or private sector that:

(1) Is given to a paid employee while the employee is engaged in productive work, and

(2) Provides knowledge and skills essential to the full and adequate performance of the job.

b. Supportive payments. Transportation for on-the-job training is treated in the same manner as transportation for employment. Expenses are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Child care payments shall be provided when needed as described at subrule 93.11(2).

c. Documenting participation. Documentation of participation shall be provided as described at subrule 93.10(2).

d. Failure to participate in on-the-job training. Participants who without good cause do not participate in on-the-job training as identified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at 441—93.14(239B) shall apply.

93.7(4) *Work experience program.* Work experience sites shall provide participants with work experience and on-the-job training opportunities.

a. Sponsors. Employers who participate in the work experience program are referred to as sponsors. Work experience sponsors may be public sector, private sector, community-based, faith-based, or nonprofit employers.

(1) Participants may be placed at work sites with religious institutions only when the work performed is nonsectarian and not in support of sectarian activities.

(2) Participants may not be used to replace regular employees in the performance of nonsectarian work for the purpose of enabling regular employees to engage in sectarian activities.

(3) Each work experience program sponsor shall provide to the PROMISE JOBS service provider a copy of the sponsor's safety rules before participants are referred for work site placement.

b. Positions. To request a work experience placement, the sponsor shall complete Form 470-0809, Sponsor's Request for Work Experience (WEP) Participant, for each type of position the sponsor wishes to fill. The request shall include a complete job description that specifies all tasks to be performed by the participant. PROMISE JOBS has final authority to determine suitability of any work experience position offered by a sponsor. Work experience positions:

(1) Must contain the same job description and performance requirements that would exist if the sponsor were hiring an employee for the same position;

(2) Shall not be related to political, electoral, or partisan activities;

(3) Shall not be developed in response to or in any way be associated with the existence of a strike, lockout, or other bona fide labor dispute;

(4) Shall not violate any existing labor agreement between employees and employers;

(5) Shall comply with applicable state and federal health and safety standards;

(6) Shall not be used by sponsors to displace current employees or to infringe on the promotional opportunities of current employees;

(7) Shall not be used in place of hiring staff for established vacant positions; and

(8) Shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

c. Participant selection. A participant's vocational skills and interests shall be matched as closely as possible with the job description and skills required by the sponsor.

(1) Participant responsibility. Participants shall interview for and accept positions offered by work experience sponsors. Participants shall present Form 470-0810, Referral for Work Experience (WEP) Placement, to the sponsor at the interview. The form shall be completed by the sponsor and returned to PROMISE JOBS.

(2) Sponsor responsibility. Although sponsors are expected to accept work experience referrals made by PROMISE JOBS, sponsors may refuse any referrals they deem inappropriate for the available position. Sponsors shall not discriminate against any program participant because of race, color, religion, sex, age, creed, physical or mental disability, political affiliation, or national origin. Sponsors who refuse a referral must notify PROMISE JOBS in writing of the reason for the refusal.

d. Hours of participation. When a participant is involved in work experience that is subject to the Fair Labor Standards Act (FLSA), the participant cannot be required to work more hours than the amount of the monthly FIP grant divided by federal or state minimum wage, whichever is higher. EXCEPTION: To determine the maximum hours that can be required of a single-parent family on FIP with a child under the age of six, add the value of the family's food assistance to the FIP grant amount before dividing by the minimum wage.

(1) A participant cannot be required to work more hours than those calculated under paragraph *"d"* of this subrule. Only hours up to or less than that calculation can be included in the participant's FIA.

(2) If two or more members of the same household participate in work experience, the total required hours of participation of the household cannot exceed the hours calculated according to paragraph *"d"* of this subrule.

(3) Each work experience assignment shall not exceed six months in duration.

e. Participant performance evaluations.

(1) Monthly evaluations. Sponsors shall complete a monthly evaluation of the participant's performance using Form 470-0805, Work Experience Participant Evaluation, and provide a copy to PROMISE JOBS and to the participant.

(2) Final evaluations. Sponsors shall complete Form 470-0805, Work Experience Participant Evaluation, at the time of termination for each work experience participant. When termination occurs

at the sponsor's request, the sponsor shall specify the reason for termination and identify those areas of unsatisfactory performance. For participants who leave to accept regular employment or reach their work experience placement time limit, the sponsor's evaluation shall indicate whether or not a positive job reference would be provided if the participant requested one.

f. Supportive payments for work experience placements.

(1) Child care and transportation. Participants assigned to work experience shall receive a child care payment, if required, and a transportation payment for each month or part thereof as described at subrules 93.11(2) and 93.11(3). The portion of the transportation payment for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.11(3).

(2) Required clothing and equipment. A participant may receive up to a limit of $100 per work-site assignment for clothing or equipment if required by the work experience site and not covered by the sponsor.

(3) Workers' compensation. The department of human services shall provide workers' compensation coverage for all PROMISE JOBS work experience participants.

g. Documenting participation. Documentation of participation shall be provided as described at subrule 93.10(2).

h. Completion of work experience. Persons who complete a work experience assignment may move to another activity as provided under the FIA, be assigned to a different work site, or be reassigned to the same work site, whichever is appropriate under the FIA.

i. Failure to participate in work experience. A participant who without good cause does not participate in work experience as identified in the FIA shall be considered to have chosen the limited benefit plan. Procedures at rule 441—93.14(239B) shall apply.

93.7(5) *Unpaid community service.* Unpaid community service shall provide participants with opportunities to establish or reestablish contact with the workforce while providing services that are of direct benefit to the community.

a. Work sites. Unpaid community service work sites shall be public or private nonprofit organizations. The PROMISE JOBS provider agencies shall provide community service work sites a written explanation of the following placement criteria. The placement:

(1) Shall comply with applicable state and federal health and safety standards;

(2) Shall not be related to political, electoral or partisan activities;

(3) Shall not be developed in response to or in any way associated with the existence of a strike, lockout, or other bona fide labor dispute;

(4) Shall not violate any existing labor agreement between employees and employers;

(5) Shall not be used to displace current employees or to infringe on their promotional opportunities;

(6) Shall not be used in place of hiring staff for established vacant positions; and

(7) Shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

b. Locating the work site. The PROMISE JOBS provider agencies shall develop local listings of potential unpaid community service work sites. When a participant and the PROMISE JOBS worker agree that an unpaid community service placement is appropriate, the participant is responsible for locating and making arrangements with the work site. Formal interviews are not required to establish the relationship between the participant and the work site organization.

c. Length of assignment and weekly hours. The length of the work site assignment and the weekly hours of participation shall be determined through agreement among the work-site organization, the participant, and the PROMISE JOBS worker. When a participant is involved in community service that is subject to the Fair Labor Standards Act (FLSA), the participant cannot be required to work more hours than the amount of the participant's monthly FIP grant divided by federal or state minimum wage, whichever is higher. Only hours up to or less than the maximum calculated may be included in the participant's FIA. Exceptions are as follows:

(1) For a participant who is a single parent with a child under the age of six, the maximum hours that can be required are determined by adding the value of the participant's food assistance to the FIP grant amount before dividing by the minimum wage.

(2) Participants who are court-ordered to do community service shall work the number of hours required by the court.

e. Supportive payments. A child care payment and a transportation payment for each month of participation or part thereof shall be paid as described at rule 441—93.11(239B) if these services are required for participation.

f. Documenting participation. Documentation of participation shall be provided as described at subrule 93.10(2).

g. Failure to complete unpaid community service. Participants who without good cause do not participate in unpaid community service as specified in their FIA shall be considered to have chosen the limited benefit plan. Procedures at rule 441—93.14(239B) shall apply.

[**ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.8(239B) Education and training activities. Education refers to any academic or vocational course of study that enables a participant to complete high school, improves a participant's ability to read and speak English, or prepares a participant for a specific professional or vocational area of employment. Though employment leading to economic self-sufficiency is the eventual goal of all FIAs, it is recognized that education increases a person's chance of finding employment, particularly employment that leads to economic self-sufficiency. Any participant who requests participation in educational activities shall be evaluated to determine the likelihood of success. If the request is approved, a training plan shall be developed and included in the participant's FIA.

93.8(1) *Participant requirements.* The decision to include education in an FIA shall take into account the results of the educational evaluation pursuant to paragraph *"b"* of this subrule and the current educational level of the participant. Prior academic or vocational training is not, in itself, a reason for denial or approval of educational services. All family members who are approved for education shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same educational facility and in the same program. For education to be approved for inclusion in an FIA, the following requirements shall be met.

a. Vocational goal. For a participant enrolled in postsecondary education, the education must lead to a specific vocational goal. A degree in general studies or programs not leading to specific occupational outcomes cannot be included in a participant's FIA.

(1) Except as provided in subparagraph 93.8(1)*"a"*(2), a vocational goal must be in an occupational field for which available labor market information or emerging business trends in the participant's local area indicate employment potential. These trends or statistics must be provided by a legitimate source, such as but not limited to:

1. The department of workforce development,
2. Private employment agencies, or
3. Local employers providing jobs paying at least minimum wage for which the education is being requested.

(2) Information to support employment potential in the participant's local area is not required when:

1. The participant has a documented job offer in the field before entering the training; or
2. The participant is willing to relocate after training to an area where there is employment potential. Documentation for the new location shall meet the requirements in subparagraph 93.8(1)*"a"*(1).

(3) For participants attending high school or high school equivalency activities, adult basic education or English as a second language, the vocational goal is to improve employability by successfully completing the activity.

b. Evaluation. A participant under the age of 19 does not need to complete an educational evaluation in order to have high school completion included in the FIA. For every other training activity,

an educational evaluation shall be completed according to this paragraph before the activity is included as part of a participant's FIA.

(1) A participant who chooses to enter educational activities before obtaining approval is not eligible to receive supports as described in subrule 93.8(6), cannot use that activity to meet the FIA participation obligation, and shall be expected to participate in other FIA activities.

(2) A participant who is already involved in education at the time of FIP application or enters education before approval must meet the requirements in this rule before the educational activities can be included in the FIA. Once approved, the current educational activity may then be included in the participant's FIA, and the participant will be eligible to receive supports as described in subrule 93.8(6).

93.8(2) *Provider requirements.* Both public and private agencies may provide educational activities.

a. Type of provider. Education may be included in the FIA if obtained from a provider that is approved or registered with the state or is accredited by an appropriate accrediting agency. Training provided by a community action program, church, or other agency may be included in the FIA only if the PROMISE JOBS worker determines that:

(1) The training is adequate and leads to the completion of the participant's vocational goal; and

(2) The training provider possesses appropriate and up-to-date equipment; has qualified instructors, adequate facilities, a complete curriculum, acceptable grade point requirements, and a good job-placement history; and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

b. Time and attendance. The participant's actual hours attending an educational activity must be verified pursuant to subrule 93.10(2). If the educational activity is structured in such a way that verification cannot be obtained or the educational provider is unwilling to provide time and attendance verification, the educational activity cannot be included in the participant's FIA.

93.8(3) *Approvable activities.* Training plans shall include only training activities that can be considered as meeting the FIA obligations for participation. The following activities may be included in a training plan:

a. Adult basic education.

b. Continuing education units when needed for the participant to be recertified or retrained to reenter a field in which the participant was previously trained or employed or to maintain certification needed to remain employed.

c. Correspondence courses when the courses are required but not offered by an educational facility attended by the participant.

d. English as a second language.

e. High school or high school equivalency completion. Any participant who does not have a high school diploma or high school equivalency diploma (HSED) shall be encouraged to obtain a diploma. A participant who is 18 years of age or older may be approved to return to regular high school only when the participant can graduate within one year of the normal graduation date. High school equivalency or high school courses and other types of vocational training may run concurrently.

f. On-line or distance learning. Distance learning includes training such as, but not limited to, that conducted over the Iowa communications network, on-line courses, or Web conferencing. The training:

(1) Must include interaction between the instructor and the student, such as required chats or message boards;

(2) Must include mechanisms for evaluation and measurement of student achievement; and

(3) Must be offered in Iowa unless the conditions in paragraph *"g"* of this subrule apply. An on-line training program shall be considered an out-of-state training program when any of the required training or testing occurs out-of-state.

g. Out-of-state training. Out-of-state training is approvable only when:

(1) Similar training is not available in Iowa,

(2) Relocation required to attend an in-state facility would be unnecessary if attending an out-of-state facility, or

(3) The only in-state facilities within commuting distance are private schools where tuition costs are higher than at an out-of-state facility within commuting distance.

h. Postsecondary education up to and including a baccalaureate degree program.

(1) A participant with no postsecondary education may be approved for training resulting in a certificate of program completion or an academic degree, such as an associate or baccalaureate degree. Participants who have not completed a high school education or received a high school equivalency diploma (HSED) may be required to do so before courses leading to an associate degree or higher are approved.

(2) A participant who has a baccalaureate degree or higher is considered employable. No further training shall be approved unless the participant's physical or mental status has changed to such an extent that the past education is no longer appropriate. The participant must provide supportive evidence from either a qualified medical or mental health professional or the state rehabilitation agency.

(3) A participant who has successfully completed a postsecondary educational program that provides less than a baccalaureate degree may be approved for further training if the participant meets one of the following criteria:

1. The previous training is in an occupation that is outdated.
2. The previous training is in a field where current labor market information or emerging business trends show little or no employment opportunity.
3. The training requested is a progression in a specific career that moves a participant from entry-level positions to higher levels of pay, skill, responsibility, or authority.
4. The participant's background makes employment in the area in which the participant is trained impossible.
5. Changes in the participant's physical or mental status make the past training no longer appropriate. The participant must provide supportive evidence from a qualified medical or mental health professional or the state rehabilitation agency.

i. Prerequisite courses required by the selected training program.

j. Remedial coursework for one term when needed as determined by testing conducted by the training facility.

k. Summer school.

93.8(4) *Nonapprovable activities.* Nonapprovable training activities shall not be included in the FIA. When an activity in which the participant is enrolled becomes nonapprovable, PROMISE JOBS shall cancel the current training plan and require the participant to renegotiate the FIA to include other activities. Form 470-0602, Notice of Decision: Services, shall be issued to inform the participant that the request for education is canceled. Nonapprovable activities include the following:

a. A course or training that the participant has previously completed.

b. Any course or training in a field in which the participant does not intend to seek employment after the training is completed. An exception may be made when the reason for not seeking employment is to receive further education when the education:

(1) Is a planned progression in a specific career path; and

(2) Will not lead to an advanced degree beyond a baccalaureate.

c. A training program that does not relate to the identified vocational goal.

d. Educational activities for which the participant has failed to earn the grades required for admission.

e. Education in a field in which the participant will not be able to be employed due to known criminal convictions or founded child or dependent adult abuse.

f. Out-of-state training except as allowed under paragraph 93.8(3)*"g."*

g. Training for jobs paying less than state minimum wage.

h. Training that will not be completed until after the participant leaves FIP. Training programs that exceed the known length of time during which the participant will remain eligible for FIP assistance shall be approved only if:

(1) The time remaining in the training is minimal and tuition has already been paid.

(2) There is a reasonable plan for how the program will be completed without the assistance and support from FIP or PROMISE JOBS. A reasonable plan may include, but not be limited to, school loans, grants, and scholarships.

93.8(5) *Training plan content.* Once a participant is approved for training, a training plan shall be developed and written into the participant's FIA. The training plan shall include:

a. Academic enrollment hours. Participants are encouraged to maintain as full an academic workload as is possible in order to complete their education in a timely manner. However, a person may choose to participate in education along with other activities such as employment, job-seeking skills, or other FIA activities.

b. Approved training plan activities.

c. The specific educational goal as defined in paragraph 93.8(1)*"a."*

d. A date by which the participant expects to complete training. This end date depends on:

(1) Time frames specified for a program as established by the educational facility.

(2) Whether the participant is attending full-time or part-time.

(3) Problems or barriers to involvement as identified in subrule 93.4(5) or 93.14(1).

e. Testing schedule. Participants enrolled in ABE or ESL programs must be able to complete training in the time determined by the testing schedule unless the PROMISE JOBS worker and, if appropriate, the participant's academic advisor or instructor agree that additional time may be allowed. Under no circumstances, however, shall more than 6 additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 months for ABE or 12 months for ESL.

93.8(6) *Supportive payments.* PROMISE JOBS may provide payment for certain expenses when needed to participate in approved education and training activities as described in this subrule and in subrule 93.11(4).

a. Eligibility.

(1) Eligibility for PROMISE JOBS supportive payments for education and training begins with the date when the participant begins training under an approved plan or is removed from a waiting list as described at paragraph 93.4(4)*"d,"* whichever is later.

(2) Participant eligibility for payment of transportation and child care payments begins as described in subparagraph 93.8(6)*"a"*(1) and shall be terminated when a training plan is canceled.

(3) Each participant in postsecondary vocational training is limited to 24 fiscal months of PROMISE JOBS payment of expenses needed for participation. The 24 fiscal months do not have to be consecutive. See paragraph *"b"* of this subrule for additional limits on child care expenses.

(4) When more than one facility offers a particular program, payment is limited to the amount required to attend the nearest educational facility except when attending a facility that is farther away will allow the family to reach self-sufficiency earlier.

b. Child care. Participants assigned to educational activities shall receive a child care payment, if required, for each month or part thereof as described at subrule 93.11(2). EXCEPTION: Each PROMISE JOBS participant is limited to 24 fiscal months of child care assistance.

(1) All child care assistance payments issued under the PROMISE JOBS program count toward this limit.

(2) All child care assistance payments issued for child care provided on or after March 1, 2009, count toward this limit, including payments issued while the person was not a PROMISE JOBS participant, pursuant to 441—subparagraph 170.2(2)*"b"*(1).

c. Transportation. Participants assigned to educational activities shall receive a transportation payment for each month or part thereof as described at subrule 93.11(3) unless transportation payments are available from another source.

(1) When a participant receives a transportation payment from another program which equals or exceeds that possible under PROMISE JOBS, transportation shall not be paid by PROMISE JOBS for any month covered by the other program.

(2) When the amount received from another program is less than that possible under PROMISE JOBS, a supplemental payment may be made as long as the combined payment does not exceed that normally paid by PROMISE JOBS.

(3) When a participant is enrolled in high school, a transportation payment shall not be allowed if transportation is available from another source, such as the school district. If child care needs or the needs

of the child or the participant make it impractical or inappropriate for the participant to use transportation provided by the school district, a transportation payment may be authorized.

d. Training expenses. Participants enrolled in high school or high school equivalency completion, ABE, ESL, or postsecondary vocational training may be eligible for payment of the following expenses of training when required for participation, subject to limits in subrule 93.11(4):

(1) Enrollment fees,

(2) School application fees,

(3) Educational grant or scholarship application fees,

(4) Licensing, certification and testing fees,

(5) Travel costs required for certification or testing, and

(6) Certain practicum expenses as described in subparagraph 93.11(4)*"a"*(3).

e. Direct education costs. Participants enrolled in high school or high school equivalency completion, ABE, ESL, or short-term training programs of 29 weeks or less may also be eligible for payment for direct education costs, including:

(1) Tuition,

(2) Books,

(3) Fees including graduation,

(4) Basic school supplies,

(5) Specific supplies related to obtaining credit for a course and required of all students in a course, and

(6) Required uniforms.

f. Supplies purchased with PROMISE JOBS funds. Participants who successfully complete their training plans may keep any books or supplies, including tools, which were purchased with PROMISE JOBS funds. Participants who leave their training program before completion and do not obtain training-related employment within 60 days of leaving training shall return all reusable supplies, including books and tools, but not clothing, purchased by PROMISE JOBS.

(1) The PROMISE JOBS worker is authorized to donate to nonprofit organizations any items determined to be unusable by the PROMISE JOBS program.

(2) When tools are not returned, the amount of the PROMISE JOBS payment shall be considered an overpayment unless the participant verifies theft of the tools through documentation of timely report to a law enforcement agency.

93.8(7) *Documentation.*

a. Plan. The following information shall be documented in the participant's file.

(1) Evaluation results, pursuant to paragraph 93.8(1)*"b."*

(2) Current educational level.

(3) Justification for approval of additional postsecondary education pursuant to subrule 93.5(3).

(4) Academic probationary status pursuant to subrule 93.8(8).

(5) Justification for denial of education. Form 470-0602, Notice of Decision: Services, shall be issued to the participant to deny the request for education.

b. Participation. A participant shall provide documentation of the actual hours of participation in education and homework and of grades and academic progress as described in subrule 93.10(2).

93.8(8) *Academic probation.* A participant may be placed on academic probation for at least one term, or a comparable time limit appropriate to the educational program, after which the participant shall be reevaluated for continued inclusion in education activities. This subrule does not apply to parents under the age of 18 who are attending high school completion programs.

a. Placing a participant on academic probation. The PROMISE JOBS worker may choose to place a participant on academic probation in the following circumstances:

(1) The educational evaluation completed according to paragraph 93.8(1)*"b"* identifies some factors with the participant's ability or past circumstances that could make successful completion of the training difficult but the participant's motivation is high and changes in the participant's life situation indicate a realistic probability of success.

(2) The participant was previously unable to maintain the cumulative grade point average required by a training facility in training comparable to that being requested.

(3) The participant enrolled but did not complete a previous education activity without good cause.

(4) At the end of a term, or of a comparable period applicable to the educational program, the participant is receiving less than a 2.0 grade point average or less than a higher average that is required by the specific training facility or curriculum.

b. Probation outcomes. The participant shall be removed from probation for satisfactory performance if, by the end of the established probationary period, the participant is receiving at least a 2.0 grade point average or a higher average as required by the specific training facility or curriculum.

(1) Reevaluation. If the participant is not receiving the required grade point by the end of the probationary period, the participant shall be reevaluated to determine continued eligibility for participation in education using the same type of information used to originally evaluate the likelihood of academic success as identified in paragraph 93.8(1)*"b."* Documentation shall meet the requirements as stated in subrule 93.8(7).

(2) Continued probation. Probation may be continued when reevaluation indicates that education is appropriate. The PROMISE JOBS worker may also consider continued probation when:

1. Temporary barriers such as illness or family emergencies that interfered with successful participation have been resolved.

2. Long-term barriers to successful participation have been identified and accommodations developed and implemented.

3. The counselor or the lead instructor in the educational program verifies that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next term or a comparable time limit appropriate to the educational program.

(3) Cancellation of a training plan. The participant's current training plan shall be canceled if the participant has failed to maintain at least a 2.0 grade point average or a higher average required by the specific training facility or curriculum, and reevaluation indicates no mitigating circumstances as listed in subparagraph 93.8(8)*"b"*(2). When a training plan is canceled, the participant will be required to renegotiate the family investment agreement to include either a new, more appropriate training plan or other FIA activities. Form 470-0602, Notice of Decision: Services, shall be issued to the participant to inform the participant that the approval for education is canceled.

93.8(9) *Limited benefit plan.* Participants in education choose a limited benefit plan through the following actions.

a. Failure to participate. The participant fails to maintain education activities or follow training plan requirements as specified in the participant's FIA, and the participant does not have good cause. Procedures at rule 441—93.14(239B) shall apply.

b. Misuse of payments. The participant misuses expense payments to the extent that the training plan is no longer achievable or knowingly provides receipts or any other written statements that have been altered, forged, or, in any way, are not authentic.

[**ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.9(239B) Other FIA activities.

93.9(1) *Parenting skills training.*

a. Parents aged 20 or older. For parents who are aged 20 or older when the FIA is signed, activities that strengthen the participant's ability to be a better parent can be considered approvable training under PROMISE JOBS and may be included in the FIA as long as the participant is active in at least one other PROMISE JOBS component. Parents aged 20 or older who do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan, unless family circumstances warrant renegotiation and amendment of the FIA.

b. Parents aged 19 or younger. Parents aged 19 or younger when the FIA is signed are required to include parenting skills training in the FIA, but may be excused from the requirement when documentation of satisfactory completion of parenting skills training is provided before the FIA is signed.

(1) Priority for orientation or assessment. In any month, PROMISE JOBS shall give priority for orientation or assessment services to parents who are already aged 19 in order to establish their responsibility for parenting classes before they are aged 20. This applies to those who are scheduled for orientation, to those who are still in assessment, and to those who have an FIA that must be renegotiated and amended.

(2) FIA requirement. The FIA shall be written or renegotiated and amended to include specific plans for parenting skills training and shall identify the training provider's name and beginning and ending dates of the training. The scheduled training may be in the future to accommodate availability of provider resources. However, it shall occur as soon as is compatible with the circumstances of the family, the other activities in the FIA, and the availability of provider resources, except as specified at paragraph 93.4(4)*"d."*

(3) Parents aged 19 or younger who are participating in a parenting skills training program at the time the FIA is signed shall be allowed to continue in that program, if they choose, as long as the provider is listed in paragraph 93.9(1)*"c"* or meets the requirements of paragraph 93.9(1)*"c"* and documentation of enrollment is provided. The time frames as described in paragraph 93.9(1)*"d"* shall be used to determine the remaining training time to be included in the FIA.

(4) Participation in other activities. Parents aged 19 or younger are not required to be participating in another PROMISE JOBS component to be eligible for parenting skills training. Other PROMISE JOBS components are included in the FIA according to policies at subrule 93.4(4).

c. Approved providers. The sources listed in this paragraph are approvable providers for parenting skills training.

(1) High school departments of family and consumer sciences that offer child development, family relationships, or parenting classes and alternative high school programs for pregnant and parenting teens. Services shall be limited to a minimum of one semester and a maximum of two semesters.

(2) Community colleges, other associate-degree institutions, and baccalaureate-degree institutions that offer child development, family relationships, or parenting classes. Services shall be limited to one semester or two quarters.

(3) Area education agencies; child abuse prevention programs; child and adult food program sponsors; child care resource and referral agencies; family resource centers; maternal and child health centers; family development and self-sufficiency program grantees and other family development providers; Head Start, Head Start parent and child centers, and Early Head Start programs; Iowa State University Extension services such as, but not limit to, the "Best Beginnings" program; private nonprofit social service agencies; and young parent support and information organizations. Services shall be limited to:

1. A minimum of 6 contact hours or six weeks, whichever comes first, and
2. A maximum of 26 contact hours or six calendar months, whichever comes first.

d. Other providers of parenting skills training are approvable as long as they:

(1) Have five of these six elements: child growth and development, child health and nutrition, child safety, positive discipline, relationships, and life skills.

(2) Offer training within the following time frames:

1. A minimum of 6 contact hours or six weeks, whichever comes first, and
2. A maximum of 26 contact hours or six calendar months, whichever comes first.

e. Supportive payments. For participants described in paragraphs 93.9(1)*"a"* and 93.9(1)*"b,"* a child care payment and a transportation payment for each month of participation, or part thereof, as described at subrule 93.11(3), shall be paid if these services are not available from another entity and are required for participation.

(1) Other expenses. Payment for tuition, fees, or books and supplies shall be made only when parenting skills training is not available from a free source in the local area. PROMISE JOBS shall not pay for any expenses that are covered by student financial aid in postsecondary educational institutions as provided elsewhere in these rules.

(2) Continuation of payments. If the participant chooses to continue with the parenting skills training program beyond the designated period of participation described in paragraph 93.9(1)*"c,"*

PROMISE JOBS responsibility for payment of expense payments shall not extend beyond the designated period unless completion is delayed by acceptable instances for nonparticipation as stipulated at rule 441—93.14(239B) or barriers to participation at subrule 93.4(5).

f. Participation in parenting skills training. The planned duration of the parenting skills training shall be determined by agreement between the participant and the training provider within the limits described in paragraphs 93.9(1)*"c"* and 93.9(1)*"d."*

(1) In consultation with the PROMISE JOBS worker, the participant and the provider shall design a written agreement and provide a copy to PROMISE JOBS. The agreement shall designate the period during which the mandatory parenting skills training requirement will be fulfilled. The period specified in the agreement or notice of decision shall be included in the FIA.

(2) Participants who fail to carry out this step in the FIA shall be considered to have chosen the limited benefit plan.

g. Failure to complete parenting skills training. Parents aged 19 or younger who do not include parenting skills training in the FIA or do not carry out the parenting skills training described in the FIA shall be considered to have chosen the limited benefit plan. Procedures at rule 441—93.14(239B) shall apply.

93.9(2) *Family development.* Family development services are support services for PROMISE JOBS families at risk of long-term dependency on public assistance. The services are designed to promote, empower, and nurture the family to self-sufficiency and healthy reintegration into the community.

a. PROMISE JOBS may arrange for family development services from entities that meet one of the following criteria wherever these are available. Family development services shall be:

(1) Provided by a family development specialist certified by the University of Iowa College of Social Work, National Resource Center on Family-Based Services; or

(2) Provided under a plan that has been approved by the family development and self-sufficiency (FaDSS) council of the department of human rights.

b. Inclusion of family development services by participants as a family investment agreement activity is voluntary except for unmarried parents aged 17 and younger who do not live with a parent or legal guardian as described at subparagraph 93.4(4)*"c"*(4).

93.9(3) *Family planning counseling.* Referral for family planning counseling is an optional service that shall be offered to each applicant or participant. It is not a component of PROMISE JOBS.

a. The department of human services worker or the PROMISE JOBS worker shall:

(1) Discuss orally and in writing the financial implications of newly born children on the participant's family during PROMISE JOBS orientation or assessment, using a form approved by the department; and

(2) Review information about the basics of family planning; and

(3) Provide a listing of resources in the participant's county of residence or the service delivery area.

b. The FIA shall record participant response to the option of referral for family planning counseling. It is not acceptable for the FIA to have family planning counseling as the only step of the FIA.

c. Supportive payments. No supportive payments are allowed for family planning counseling.

d. Participation. Limited benefit plan policies do not apply to participants who choose not to include family planning counseling in the FIA or who do not carry out the steps of family planning counseling.

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14]

441—93.10(239B) Required documentation and verification.

93.10(1) *Written notification to participants.*

a. Notice of meetings, assignments, and issues. PROMISE JOBS shall notify participants in writing of all scheduled meetings, of FIA activity and work-site assignments, and of any participation issues as described at rule 441—93.13(239B). PROMISE JOBS shall also notify the participant in

writing when the participant is required to provide medical documentation, verification of hours of participation, employment verification, or any other verification.

(1) PROMISE JOBS shall allow a participant five working days from the date notice is mailed to appear for scheduled meetings unless the participant agrees to an appointment that is scheduled to take place in less than five working days.

(2) PROMISE JOBS shall allow a participant five working days from the date notice is mailed to appear for an FIA activity or work-site assignment or to provide medical documentation, employment verification, or any other verification, except as otherwise specified in 93.10(2).

(3) PROMISE JOBS shall allow additional time upon request from the participant when the participant is making every effort but is unable to fulfill requirements within the established time frame.

b. Notice of decision. PROMISE JOBS shall send written notice to each participant in accordance with 441—Chapter 7 when services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are approved when the participant is assigned to begin participation in an activity as written in the FIA.

93.10(2) *Verification of participation and progress.* Hours of participation and a participant's progress in FIA activities must be documented and verified. When the participant is responsible for providing the verification, PROMISE JOBS shall notify the participant in writing as required in subrule 93.10(1).

a. FIA activities directly monitored by PROMISE JOBS. When the FIA activities are provided or directly monitored by PROMISE JOBS staff, such as job club or workplace essentials, the staff will document the participant's hours of attendance and progress in the case file.

b. FIA activities not directly monitored by PROMISE JOBS. When FIA activities are provided by a service provider other than PROMISE JOBS, the provider shall verify the participant's hours of attendance with Form 470-2617, PROMISE JOBS Time and Attendance Report, unless another method is required by this rule.

(1) The provider is expected to specify the participant's hours of attendance and to sign and date the Time and Attendance Report.

(2) The participant is responsible for providing the signed and dated form to PROMISE JOBS within ten calendar days following the end of each month, unless the provider provides the form to PROMISE JOBS within this time frame.

(3) EXCEPTION: If the participant is under age 20 and in high school or high school equivalency classes, the participant may verify the hours by completing and submitting the PROMISE JOBS Time and Attendance Report monthly. The training provider does not need to sign the form.

c. Documentation of job search. The participant shall complete and provide documentation of any job search activities that cannot be verified by the PROMISE JOBS worker. The participant shall provide Form 470-3099, Job Search Record, within ten calendar days following the end of each month during which the participant has made a job search. The PROMISE JOBS worker shall consider the Job Search Record complete if the form includes:

(1) Sufficient information to identify the employer that was contacted or the activity that was completed,

(2) The date that the contact was made or the date the activity was completed,

(3) The amount of time spent, and

(4) The participant's signature.

d. Employment verification. Participants shall verify actual hours of employment at the time that employment begins, upon FIP approval if employed at the time of application, when changes in hours occur, and no less than once every six months thereafter. Participants may use employer statements or copies of pay stubs, Employer Statement of Earnings Form 470-2844, or may sign Form 470-0429, Consent to Obtain and Release Information, so that the employer may provide information directly to the PROMISE JOBS worker. Participants shall provide verification of actual hours of employment within five working days of the written request from PROMISE JOBS.

e. Documentation of self-employment. At the time of the participant's FIA review, a self-employed participant shall provide documentation of actual hours worked and gross income and business expenses

from the last 30 days. Data from more than 30 days may be requested if the last month is not indicative of normal business. The participant shall provide documentation within five working days of the written request from PROMISE JOBS.

f. Distance learning. When a participant is involved in a distance-learning program, PROMISE JOBS will accept the documentation issued by the distance-learning institution verifying that the student participated in the sessions.

(1) Documentation may include the attendance records or log-in and log-out records available on line or in an electronic format. Documentation may also be obtained through an agreement with a support agency that monitors the student's actual participation.

(2) The participant is responsible for providing the documentation within ten calendar days following the end of each month unless the institution provides the documentation to PROMISE JOBS within this time frame.

g. Failure to provide required documentation or verification. Participants who fail to provide documentation or verification as described in this subrule after written notification from PROMISE JOBS as described in subrule 93.10(1) shall be considered to have chosen the limited benefit plan. Procedures at rule 441—93.14(239B) shall apply.

93.10(3) *Verification of problems or barriers.* Participants may be required to provide written verification or supporting documentation of reported problems or barriers to participation, such as but not limited to lack of transportation, family emergency, or existence of a mental or physical disability or limitation or substance abuse.

a. Medical documentation. A participant shall secure and provide written documentation signed by a qualified medical or mental health professional to verify a claimed illness or disability within five working days of a written request by PROMISE JOBS. This time limit may be extended due to individual circumstances, such as the need to obtain an updated evaluation. Acceptable verification includes Form 470-0447, Report on Incapacity, or other statement signed by a qualified medical or mental health professional to verify the existence of an illness, disability, or limitation.

b. Other documentation. A participant shall secure and provide written documentation to verify a claimed problem or barrier to participation within five working days of a written request by PROMISE JOBS. Acceptable documentation may include a signed statement from a third party with knowledge of the problem or barrier.

c. Failure to verify problem or barrier or to provide medical documentation. Failure to provide verification of a problem or barrier or to provide medical documentation as described at subrule 93.10(3) does not directly result in the imposition of a limited benefit plan. Examples of actions that do not directly result in a limited benefit plan include, but are not limited to, failure to provide Form 470-0447, Report on Incapacity, or other statement from a medical or mental health professional to verify the existence of an illness or disability, or a statement from a third party with knowledge about the problem or barrier.

(1) Participants who claim an inability to participate on a full-time basis due to a claimed problem or barrier and who fail to provide verification or medical documentation upon written request may be required to renegotiate the FIA to include full-time participation in FIA activities. Failure to renegotiate the FIA may result in a limited benefit plan.

(2) Participants who claim a problem or barrier caused their failure to participate for the full number of hours identified in their FIA and who fail to provide verification of the problem or barrier or medical documentation upon written request may not be excused for the failure to participate. If the failure is not excused, the failure will result in imposition of a limited benefit plan if the failure meets the criteria described at subrule 93.13(2).

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14; **ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.11(239B) Supportive payments. In order to facilitate successful participation, PROMISE JOBS may provide payment for the expenses listed in this rule. Participants shall submit Form 470-0510, Estimate of Cost, to initiate payments or change the amount of payment for expenses other than child care.

93.11(1) *Eligibility.* Participants are eligible for supportive payments needed for participation in activities in their FIA, subject to the limits in this chapter.

a. Applicants in a limited benefit plan who must complete significant contact with or action in regard to PROMISE JOBS for FIP eligibility to be considered, as described at 441—paragraphs 41.24(8)*"a"* and *"d,"* are eligible for expense payments for the 20 hours of activity. However, PROMISE JOBS services and supportive payments are only available when it appears the applicant will otherwise be eligible for FIP.

b. Applicants who have received 60 months of FIP are eligible for PROMISE JOBS services and payments under the circumstances described at 441—subrule 41.30(3).

93.11(2) *Child care.* Payments for child care shall be issued through the child care assistance program as described at 441—Chapter 170.

a. Payment shall be provided for child care if:

(1) Care is needed for participation in any PROMISE JOBS activity other than orientation,

(2) Payment is not specifically prohibited elsewhere in these rules, and

(3) Payment is not available from another source.

b. Payment shall be issued to the child care provider after the service has been received, as described in 441—subrule 170.4(7).

93.11(3) *Transportation.* Participants may receive a transportation payment for each day that transportation is needed for participation in a PROMISE JOBS activity. Transportation payments shall be determined according to the circumstances of each participant. If necessary, payments shall cover transportation for the participant and child from the participant's home to the child care provider and to the PROMISE JOBS site or activity.

a. Exclusions.

(1) A transportation payment is not available for orientation or for assessment activities that occur on the same day as orientation.

(2) A transportation payment is not available for employment. Participants who are employed shall be entitled to the work expense deduction described at 441—paragraph 41.27(2)*"a"* to cover transportation costs associated with employment.

b. Rate of payment. Payments shall not exceed the rate that the provider would charge a private individual.

(1) Public transportation. For those who use public transportation, the payment shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

(2) Private transportation. For participants who use a privately owned motor vehicle or who hire private transportation, the transportation payment shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment multiplied by the participant's anticipated daily round-trip miles and then multiplied by the mileage rate of 30 cents per mile.

c. Special transportation needs. Participants who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation payment when documented actual transportation costs are greater than transportation payments provided under these rules and transportation is not available from another source.

(1) Medical evidence. To be eligible for a supplemental payment, the participant must provide medical evidence of the need for an alternate mode of transportation due to disability or incapacity. EXCEPTION: A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of disability. The evidence must be from a qualified medical or mental health professional or the state rehabilitation agency. The evidence may be submitted either by letter from the qualified medical or mental health professional or on Form 470-0447, Report on Incapacity.

(2) Resources for examination. When an examination is required and other resources are not available to meet the expense of the examination, the PROMISE JOBS worker shall authorize the examination and submit a claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.

(3) Payment rates. Actual costs of transportation by a public or private agency shall be allowed. Costs of transportation provided by private automobile shall be allowed as described in subparagraph 93.11(3)*"b"*(2).

d. Issuance of payments. The transportation payment shall be issued before the first scheduled day of participation in an activity. For participants in the same activity for more than one month, transportation payments shall be issued before the first day of the month of scheduled participation except as described below.

(1) Transportation payments for assessment shall be issued in advance in weekly increments, with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of assessment.

(2) Payments for the third and subsequent months of an ongoing activity shall not be authorized before receipt of time and attendance verification, as described at subrule 93.10(2), for the month before the issuance month. EXAMPLE: A transportation payment for June, normally issued after May 15 to be available to the participant by June 1, will not be authorized until time and attendance verification for the month of April has been received in the PROMISE JOBS office.

(3) The amounts of payments for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days which represents a difference between the number of scheduled days of activity in the month before the issuance month and the number of actual days attended in that month. EXAMPLE: A transportation payment is issued in May based on 16 scheduled days of participation for June. The participant attends only 14 days of the activity. When preparing to issue the August transportation allowance, the worker subtracts two days from the normally scheduled August activities to calculate the payment. If ten days of participation are scheduled, the transportation payment issued in July for August is calculated using eight days.

(4) Because adjustment for actual attendance is not possible in the last two months of an ongoing activity, transportation payments for the last two months of an ongoing activity shall be subject to transportation overpayment provisions of paragraph 93.11(3)*"e."*

EXCEPTION: A transportation overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

e. Transportation overpayment. Payment for transportation shall be considered an overpayment subject to recovery in accordance with rule 441—93.12(239B) in the following instances:

(1) When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation payment shall be considered an overpayment. Recovery of the overpayment shall be initiated when it becomes clear that subsequent participation in the activity is not possible for reasons such as, but not limited to, family investment program ineligibility, establishment of a limited benefit plan, or exemption from PROMISE JOBS participation requirements.

(2) When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation payment period of an activity which has not been used for payment adjustment as described at paragraph 93.11(3)*"d,"* an overpayment is considered to have occurred. The amount to recover shall be the difference between the amount for the actual number of days attended and the amount for 75 percent of normally scheduled days.

93.11(4) *Training and education expenses.* Participants shall use PROMISE JOBS payments that they receive to pay authorized expenses.

a. Classroom training. PROMISE JOBS payments for classroom training are limited as follows:

(1) Tuition payments for high school or high school equivalency completion, ABE, ESL, or short-term training programs of 29 weeks or less shall not exceed the rate charged by the Iowa community college located nearest the participant's residence which offers a course or program comparable to the one in which the participant plans to enroll. If an Iowa community college does not

offer a comparable program, the maximum tuition rate payment shall not exceed the Iowa resident rate charged by the out-of-state area school located nearest the participant's residence.

(2) A standard payment for basic school supplies of $10 per term or actual cost, whichever is higher, shall be allowed for those participants who request it. A claim for actual costs higher than $10 must be verified by receipts.

(3) A per diem payment of $10 for living costs during a practicum shall be allowed when the practicum is required by the curriculum of the training facility, would require a round-trip commuting time of three hours or more per day, and is not available closer to the participant's home. If practicum earnings or other assistance is available to meet practicum living costs, no payment shall be made.

(4) Payments may be authorized to meet the costs of travel required for certification and testing, not to exceed the transportation payment as described at subrule 93.11(3) and the current state employee reimbursement rate for meals and lodging.

(5) Funds may not be used to purchase supplies to enable a participant to begin a private business.

(6) No payment shall be made for jewelry, pictures, rental of graduation gowns, elective courses that require expenditures for field trips or special equipment, such as photography or art supplies, or other items that are not required to complete training for a vocational goal.

b. Retroactive payments. Retroactive payments for transportation and allowable direct education costs shall be allowed only under the following conditions:

(1) If plan approval or removal from a waiting list occurs after the start of the term due to administrative delay or worker delay, payments shall be approved retroactive to the start of the term for which the plan is approved or removal from the waiting list is authorized. If the participant has already paid costs with private resources, the participant shall be reimbursed.

(2) If plan approval is delayed due to the fault of the participant, payment eligibility shall begin with the first day of the month during which the plan is approved or the month in which the participant is removed from a waiting list as described at paragraph 93.4(4)*"d,"* whichever is later. In this instance, there shall be no reimbursement for costs already paid by the participant.

c. Receipts. Participants shall furnish receipts for expenditures that they pay, except for transportation payments. Failure to provide receipts will preclude additional payments. Receipts may be requested for payments paid directly to the training provider if the PROMISE JOBS worker determines it is appropriate.

d. Payments directly to facility. PROMISE JOBS is authorized to provide payment for expenses allowable under these rules to the training facility for the educational expenses of tuition and fees and books and supplies which are provided by the facility and billed to the PROMISE JOBS participant. Payment may also be made to the participant in those situations where payment to the participant is determined to be appropriate by the PROMISE JOBS worker.

93.11(5) *Other expenses.*

a. Birth certificates. PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the participant to complete the workforce development registration process described in subrule 93.3(6).

b. Required clothing and equipment. A participant may receive up to a limit of $100 per work-site assignment for clothing or equipment if required by the work experience site and not covered by the sponsor.

c. Workers' compensation. The department of human services shall provide workers' compensation coverage for all PROMISE JOBS work experience participants.

d. Workforce Investment Act. PROMISE JOBS funds may also be used to pay expenses for PROMISE JOBS participants enrolled in federal Workforce Investment Act (WIA) funded services or activities when those expenses are allowable under these rules.

[**ARC 8346B**, IAB 12/2/09, effective 12/1/09; **ARC 8557B**, IAB 3/10/10, effective 4/14/10; **ARC 1694C**, IAB 10/29/14, effective 1/1/15]

441—93.12(239B) Recovery of PROMISE JOBS expense payments. When an applicant, a participant, or a provider receives an expense payment for transportation or other supportive expenses

that is greater than allowed under these rules or receives a duplicate payment of an expense payment, an overpayment is considered to have occurred and recovery is required. There are two categories of PROMISE JOBS expense payments subject to recovery: (1) transportation, and (2) other supportive expense payments.

93.12(1) The PROMISE JOBS worker shall notify the department of inspections and appeals (DIA) to record the overpayment in the overpayment recovery system. The outstanding balance of any overpayments that occurred before July 1, 1990, shall be treated in the same manner.

93.12(2) The department of inspections and appeals shall notify the participant or the provider when it is determined that an overpayment exists, as described at 441—subrule 7.5(6).

a. Notification shall include the amount, date, and reason for the overpayment. Upon the participant's request, the local office shall provide additional information regarding the computation of the overpayment.

b. The participant may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—subrule 7.5(6). If a participant or provider files an appeal request, the PROMISE JOBS unit shall notify the DIA within three working days of receipt of the appeal request.

93.12(3) A PROMISE JOBS overpayment shall be recovered through repayment in part or in full. Repayments received by the PROMISE JOBS unit shall be transmitted to the Department of Human Services, Cashier's Office, Room 14, 1305 E. Walnut Street, Des Moines, Iowa 50319-0144.

a. Overpayments of PROMISE JOBS child care issued for any month before July 1999 shall be subject to recovery rules of the PROMISE JOBS program.

b. Overpayments of child care assistance issued for July 1999, and any month thereafter, are subject to recovery rules of the child care assistance program set forth in rule 441—170.9(234).

93.12(4) When a participant or a provider offers repayment in part or in full before the end of the 30-day appeal period, the PROMISE JOBS unit or the department of human services' local office shall accept the payment. If a subsequent appeal request is received, the PROMISE JOBS unit shall notify the DIA and shall not accept any further payments on the claim. The amount of the voluntary payment shall not be returned to the participant or provider unless the final decision on the appeal directs the department to do so.

93.12(5) When a participant or a provider has been referred to the DIA to initiate recovery, the DIA shall use the same methods of recovery as are used for the FIP program, described at DIA administrative rules 481—71.1(10A) to 71.9(10A), except that the FIP grant shall not be reduced to effect recovery without the participant's written permission.

a. When the participant requests grant reduction on Form 470-0495, Repayment Contract, the grant will be reduced for repayment as described in 441—subrule 46.25(3), paragraphs *"a," "b,"* and *"c."*

b. The DIA is authorized to take any reasonable action to effect recovery of provider overpayments such as, but not limited to, informal agreements, civil action, or criminal prosecution. However, the DIA shall not take any collection action on a provider overpayment that would jeopardize the participant's continued participation in the PROMISE JOBS program.

441—93.13(239B) Resolution of participation issues. PROMISE JOBS participants who do not carry out the responsibilities of the FIA shall be considered to have chosen the limited benefit plan, as described at 441—subrule 41.24(8). The participation issues listed in this rule are those that are important for effective functioning in the workplace or training facility and for the completion of the FIA.

93.13(1) *Notification of participation issue.* When participants appear to be choosing a limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder or letter as specified in subrule 93.10(1). The reminder or letter shall:

a. Clearly identify the participation issue and the specific action needed to resolve it,

b. Clarify expectations,

c. Attempt to identify barriers to participation that should be addressed in the FIA,

d. Explain the consequences of the limited benefit plan, and

e. Offer supervisory intervention.

93.13(2) *Participation issues.* Actions that may cause participants to be considered as having chosen the limited benefit plan when the participant does not have a problem or barrier to participation as defined at paragraph 93.4(5)*"a"* or rule 441—93.14(239B) are:

a. Tardiness. Participants who are more than 15 minutes late to a scheduled FIA activity for a third time within three months of the first tardiness, after receiving one written reminder at the time the second tardiness occurred.

b. Failure to attend scheduled activities. Participants who do not, for a second time after receiving one written reminder at the first occurrence, appear for scheduled appointments, participate in assessment activities, including taking required vocational or aptitude tests, complete or provide required forms other than those described at subrule 93.10(3) or are absent from activities designated in the FIA.

c. Absence from work experience. Participants who do not, for a second time after receiving one written reminder at the first occurrence, notify work experience sponsors or the PROMISE JOBS worker of an absence within one hour of the time at which they are due to appear.

d. Disruptive behavior. Participants who exhibit disruptive behavior for a second time after receiving one written reminder at the first occurrence. "Disruptive behavior" means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

e. Unsatisfactory performance or participation. Participants whose performance or participation in an FIA activity continues to be unsatisfactory after PROMISE JOBS sends one letter as described in subrule 93.13(1).

f. Physical threats. Participants who make physical threats to other participants or staff and do not demonstrate that the participant is not at fault by providing written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official after PROMISE JOBS sends one letter as described in subrule 93.13(1).

(1) "Physical threat" means having a dangerous weapon in one's possession and either threatening with or using the weapon or committing assault.

(2) The documentation must verify that the act was caused by either a temporary problem or a serious problem or barrier that needs to be included in the FIA. The documentation must also provide reasonable assurance that the threatening behavior will not occur again.

g. Accepting work experience assignments. Participants who do not accept work experience assignments when the work experience is part of the FIA and do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one letter.

h. Work experience interviews. Participants who do not appear for work experience interviews for a second time after receiving a written reminder at the first occurrence.

i. Employment and other work activity issues. Participants who do not follow up on job referrals, who refuse offers of employment or other work activity, who reduce hours of employment or other work activity, who terminate employment or other work activity, or who are discharged from employment or other work activity due to misconduct.

(1) For the purposes of these rules, "misconduct" means a deliberate act or omission by the employed participant that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. To be considered misconduct, the employee's conduct must demonstrate deliberate violation or disregard of standards of behavior that the employer has the right to expect of employees. Mere inefficiency, unsatisfactory conduct, failure to perform well due to inability or incapacity, ordinary negligence in isolated instances, or good-faith errors in judgment or discretion shall not be deemed misconduct for the purpose of these rules.

(2) At the time of the occurrence, PROMISE JOBS shall send a letter to the participant regarding the misconduct. The letter shall give the participant an opportunity to resolve the issue by accepting a previously refused employment offer if available, returning to previously terminated employment if available, obtaining comparable employment, or demonstrating a problem or barrier that caused the failure.

j. Failure to secure child care. Participants who do not secure adequate child care when registered or licensed facilities are available after PROMISE JOBS sends one written reminder and when PROMISE JOBS has provided the participant with resources for locating adequate child care.

k. Inappropriate use of funds. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts and who do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one letter.

l. Failure to follow training plan. Education participants who do not follow the requirements of a training plan in the FIA as described at rule 441—93.8(239B).

m. Failure to renegotiate the FIA. When a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA because the participant has not attained self-sufficiency by the date established in the FIA, a limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the FIA.

93.13(3) *Choosing a limited benefit plan.*

a. Before determining that a participant has chosen the limited benefit plan due to a potential participation issue, the PROMISE JOBS worker shall make every effort to negotiate a solution. Local PROMISE JOBS management has the option to involve an impartial third party to assist in a resolution process. Arrangements shall be indicated in the local services plan of the local service delivery region. As part of the resolution process, the PROMISE JOBS worker shall determine:

(1) Whether the participant has a problem that provides good cause for the participation issue, as described in rule 441—93.14(239B). If so, the participant shall be encouraged to take actions to fulfill the FIA.

(2) Whether participant circumstances indicate that a barrier to participation exists, as described in subrule 93.4(5). If so, the FIA shall be negotiated to address the barrier.

b. The participant may be considered to have chosen the limited benefit plan when all of the following occur:

(1) The participant is notified of a participation issue as described in subrule 93.13(1);

(2) The participant does not resolve the participation issue;

(3) The participant does not present acceptable evidence of a problem providing good cause for the issue as described in rule 441—93.14(239B); and

(4) The participant does not present acceptable evidence of a barrier to participation as described in subrule 93.4(5) or fails to renegotiate the FIA to address the identified barrier.

c. If the resolution process does not lead to fulfillment of the FIA, the case shall be referred for review by the administering or contracted service provider agency.

(1) The procedure may include review by state-level staff of the administering or contracted agency or by a regional PROMISE JOBS manager, a PROMISE JOBS supervisor, an income maintenance supervisor, or a combination of any of the above. Approval of any review procedure at less than the state level shall occur only after the service delivery region demonstrates satisfactory performance of the resolution process.

(2) The department of human services retains control and oversees review procedures even when another agency is contracted with to provide PROMISE JOBS services.

d. If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen the limited benefit plan and the notice of decision shall be initiated. The notice of decision shall inform the participant of:

(1) The action needed to reconsider the limited benefit plan as described at 441—subparagraph 41.24(8)*"d"*(1).

(2) Appeal rights under the limited benefit plan are described at rule 441—93.15(239B).

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14; **ARC 1208C**, IAB 12/11/13, effective 2/1/14]

441—93.14(239B) Problems that may provide good cause for participation issues.

93.14(1) *Problems leading to less than full participation.* Problems affecting participation shall be considered to be of a temporary or incidental nature when the participation can easily be resumed. The

following problems may provide good cause for participation of less than the full number of hours identified in the FIA. PROMISE JOBS may require the participant to provide verification of the problem or barrier as described at subrule 93.10(3):

a. Illness of the participant. When a participant is ill more than three consecutive days or if illness is habitual, the PROMISE JOBS worker may require medical documentation of the illness.

b. Illness of family member. When a participant is required in the home due to illness of another family member, the PROMISE JOBS worker may require medical documentation.

c. Family emergency, using reasonable standards of an employer.

d. Bad weather, using reasonable standards of an employer.

e. Absence or tardiness due to participant's or spouse's job interview. When possible, the participant shall provide notice of the interview at least 24 hours in advance including the name and address of the employer conducting the interview. When 24-hour notice is not possible, notice must be given as soon as possible and before the interview.

f. Leave due to the birth of a child. When a child is born after referral, necessary absence shall be determined in accordance with the Family Leave Act of 1993.

g. Court appearance.

h. Attendance at school functions of the participant's children or children in the participant's household.

i. Attendance at required meetings with the department of human services or PROMISE JOBS.

j. Absence due to up to ten holidays per year.

(1) The participant must normally have been scheduled to work, or participate in an unpaid work activity on the given day and the work site or facility is closed due to a holiday, or open but the participant is allowed to take the participant's normally scheduled hours off on a different day.

(2) The holidays included are New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving, the day after Thanksgiving, and Christmas.

93.14(2) *Problems leading to refusing or quitting a job or limiting or reducing hours.* The following problems may provide good cause for participation issues of refusing or quitting a job or limiting or reducing hours. PROMISE JOBS may require the participant to provide verification of the problem or barrier as described at subrule 93.10(3):

a. Required travel time from home to the job or available work experience or unpaid community service site exceeds one hour each way. This includes additional travel time necessary to take a child to a child care provider.

b. Except as described in 441—subrule 41.25(5), work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A, commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

c. The work site violates applicable state or federal health and safety standards or workers' compensation insurance is not provided.

d. The job is contrary to the participant's religious or ethical beliefs.

e. The participant is required to join, resign from or refrain from joining a legitimate labor organization.

f. Work requirements are beyond the mental or physical capabilities as documented by medical evidence or other reliable sources.

g. Discrimination by an employer based on age, race, sex, color, disability, religion, national origin or political beliefs.

h. Work demands or conditions render continued employment unreasonable, such as working without being paid on schedule.

i. Circumstances beyond the control of the participant, such as interruption of regular mail delivery or other disruptions of services.

j. Employment change or termination is part of the FIA.

k. Job does not pay at least the minimum amount customary for the same work in the community.

l. The participant terminates employment in order to take a better-paying job, even though hours of the new job may be less than those in the previous job.

m. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include food stamp benefits and in-kind income.

n. The employment changes substantially from the terms of hire, such as a change in work hours or work shift or a decrease in pay rate.

93.14(3) *Other problems.* The PROMISE JOBS worker may identify circumstances that could negatively impact the participant's achievement of self-sufficiency that are not described in subrule 93.14(1) or 93.14(2). When this occurs, the case shall be referred to the administrator of the division of financial, health and work supports for a determination as to whether the problems are acceptable reasons for:

a. Not participating,

b. Refusing or quitting a job, or

c. Discharge from employment due to misconduct as described at paragraph 93.13(2)*"i."*

[**ARC 1146C**, IAB 10/30/13, effective 1/1/14]

441—93.15(239B) Right of appeal. In accordance with 441—Chapter 7, each applicant or participant is entitled to appeal and to be granted a hearing over disputes regarding: (1) services being received; (2) services which have been requested and denied, reduced, canceled, or inadequately provided; and (3) acts of discrimination on the basis of race, sex, national origin, religion, age or handicapping condition.

93.15(1) *Informal resolution process.* When there is a disagreement between the participant and the immediate PROMISE JOBS worker regarding the participant's FIA or participation in PROMISE JOBS components, the participant may request an interview with the supervisor and a decision on the dispute. The supervisor shall schedule a face-to-face interview with the participant within 7 days and issue a decision in writing within 14 days of the participant's request.

93.15(2) *Appeal on the content of the family investment agreement.* A participant shall have the right to appeal the content of the FIA when the informal resolution process described at subrule 93.15(1) does not resolve a disagreement between the participant and the PROMISE JOBS worker.

93.15(3) *Appeal of an alleged violation of PROMISE JOBS program policy.* Participants shall have the right to file a written appeal concerning any alleged violation of a PROMISE JOBS program policy that is imposed as a condition of participation. The responsible agency shall provide the participant with written documentation that specifies the participation requirement in dispute.

93.15(4) *Appeal rights under the limited benefit plan.* A participant has the right to appeal the establishment of the limited benefit plan only once, at the time the department issues the timely and adequate notice that establishes the limited benefit plan. However, when the reason for the appeal is based on incorrect grant computation, an error in determining the eligible group, or another worker error, a hearing shall be granted when the appeal otherwise meets the criteria for hearing.

93.15(5) *Request for a hearing on work conditions or availability of workers' compensation coverage.* A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions, the availability of workers' compensation coverage or the wage rate used in determining hours of work experience program participation.

a. When any involved party is dissatisfied with the department's final decision, the dissatisfied party shall be informed of the right to appeal the issue to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of receipt of the decision. The department may assist with the appeal upon request.

b. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can

demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery day.

c. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

441—93.16(239B) Resolution of a limited benefit plan.

93.16(1) *Resolution process for a first limited benefit plan.* For participants who choose a first limited benefit plan, the notice of decision shall inform the participant of the action needed to reconsider the limited benefit plan as described at 441—subparagraph 41.24(8)*"d"*(1).

a. The notice of decision establishing a first limited benefit plan shall inform the FIP participant that the participant may reconsider at any time from the date timely and adequate notice is issued establishing the limited benefit plan. The notice of decision shall inform the participant that the participant shall contact the department or appropriate PROMISE JOBS office to reconsider the limited benefit plan.

b. When the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to begin or resume development of the FIA as described elsewhere in these rules.

c. When the FIA is signed, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated. FIP benefits shall be effective as described at 441—subparagraph 41.24(8)*"d"*(1).

93.16(2) *Resolution process for a subsequent limited benefit plan.* The notice of decision establishing a subsequent limited benefit plan shall inform the FIP participant of the six-month ineligibility period and that the participant may reconsider at any time following the six-month ineligibility period. To reconsider, the participant must complete significant contact with or action in regard to the PROMISE JOBS program as described at 441—subparagraph 41.24(8)*"d"*(3).

a. When the six-month ineligibility period ends and the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to sign a new or updated FIA and to begin significant action as described at 441—subparagraph 41.24(8)*"d"*(3).

b. When the FIA is signed and the participant has satisfactorily completed the significant action, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated. FIP benefits shall be effective as described at 441—subparagraph 41.24(8)*"d"*(3).

441—93.17(239B) Worker displacement grievance procedure. The PROMISE JOBS program shall provide a grievance procedure to address and resolve public complaints regarding the displacement of regular workers with program participants in a work experience placement.

93.17(1) The procedure shall provide that:

a. Complaints must be filed in writing and received by the PROMISE JOBS service provider within one year of the alleged violation.

b. A representative of the PROMISE JOBS service provider must schedule a face-to-face interview with the complainant within 7 days of the date the complaint is filed, to provide the opportunity for informal resolution of the complaint.

c. Written notice of the location, date and time of the face-to-face interview must be provided.

d. An opportunity must be provided to present evidence at the face-to-face interview.

e. The representative of the PROMISE JOBS service provider shall issue a decision in writing within 14 days of the date a complaint is filed.

f. A written explanation must be provided to all involved parties of the right to file a written appeal, according to 441—Chapter 7, if the opportunity for informal resolution is declined, if a party receives an adverse decision from the PROMISE JOBS service provider, or if there is no decision within the 14-day period.

(1) To be considered, an appeal must be filed with the department within 10 days of the mailing date of the adverse decision or within 24 days of the date a complaint is filed

(2) An appeal hearing will not be granted until informal resolution procedures have been exhausted, unless a decision has not been issued within 24 days of the complaint filing date.

93.17(2) The department shall issue a final decision within 90 days of the date the complaint was filed with the PROMISE JOBS service provider.

93.17(3) Any dissatisfied party shall be informed of the right to appeal the decision of the department to the Secretary of Labor, Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of the receipt of the department's final decision.

a. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery date.

b. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review as provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.17(4) Upon notice of a complaint or grievance, the PROMISE JOBS office must provide the complaining party with a copy of the grievance procedures, notification of the right to file a formal complaint and instruction on how to file a complaint.

93.17(5) Upon filing a complaint, and at each stage thereafter, each complainant must be notified in writing of the next step in the complaint procedure.

93.17(6) The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation must be kept confidential to the extent possible, consistent with due process and a fair determination of the issues.

93.17(7) All employers who participate in the PROMISE JOBS program shall provide assurances that all regular employees are aware of this grievance procedure.

These rules are intended to implement Iowa Code section 239B.17 to 239B.22.

[Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
[Filed 4/13/90, Notice 2/21/90—published 5/2/90, effective 7/1/90]
[Filed without Notice 7/13/90—published 8/8/90, effective 10/1/90]
[Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 12/1/90]
[Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
[Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
[Filed 4/16/92, Notice 2/19/92—published 5/13/92, effective 7/1/92]
[Filed 2/10/93, Notice 1/6/93—published 3/3/93, effective 5/1/93]
[Filed 6/9/93, Notice 4/14/93—published 6/23/93, effective 8/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
[Filed emergency 7/12/95 after Notice 6/7/95—published 8/2/95, effective 8/1/95]
[Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
[Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
[Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
[Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
[Filed emergency 8/15/96 after Notice 6/19/96—published 9/11/96, effective 9/1/96]
[Filed 8/15/96, Notices 5/8/96, 7/3/96—published 9/11/96, effective 11/1/96]
[Filed 12/12/96, Notice 11/6/96—published 1/1/97, effective 3/1/97]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]

[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed emergency 7/15/98 after Notice 6/3/98—published 8/12/98, effective 8/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
[Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
[Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
[Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
[Filed 2/14/01, Notice 11/29/00—published 3/7/01, effective 5/1/01]
[Filed emergency 6/13/01—published 7/11/01, effective 7/1/01]
[Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
[Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01]
[Filed emergency 11/14/01—published 12/12/01, effective 11/14/01]
[Filed 1/9/02, Notice 11/14/01—published 2/6/02, effective 4/1/02]
[Filed 1/9/02, Notice 11/28/01—published 2/6/02, effective 4/1/02]
[Filed 2/14/02, Notice 12/12/01—published 3/6/02, effective 5/1/02]
[Filed emergency 3/14/02—published 4/3/02, effective 4/1/02]
[Filed 4/10/02, Notice 11/14/01—published 5/1/02, effective 7/1/02]
[Filed 5/9/02, Notice 4/3/02—published 5/29/02, effective 8/1/02]
[Filed 9/22/03, Notice 7/23/03—published 10/15/03, effective 12/1/03]
[Filed emergency 10/10/03—published 10/29/03, effective 11/1/03]
[Filed 7/1/04, Notice 1/21/04—published 7/21/04, effective 9/1/04]
[Filed 8/12/05, Notice 6/8/05—published 8/31/05, effective 11/1/05]
[Filed emergency 10/21/05—published 11/9/05, effective 11/1/05]
[Filed 1/12/06, Notice 11/9/05—published 2/1/06, effective 3/8/06]
[Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]
[Filed 9/19/06, Notice 7/5/06—published 10/11/06, effective 11/16/06]
[Filed emergency 7/12/07—published 8/1/07, effective 7/12/07]
[Filed 10/10/07, Notice 8/1/07—published 11/7/07, effective 12/12/07]
[Filed emergency 8/19/08—published 9/10/08, effective 9/1/08]
[Filed 12/15/08, Notices 9/10/08, 10/22/08—published 1/14/09, effective 3/1/09]
[Filed Emergency ARC 8346B, IAB 12/2/09, effective 12/1/09]
[Filed ARC 8557B (Notice ARC 8347B, IAB 12/2/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 1146C (Notice ARC 0914C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
[Filed ARC 1208C (Notice ARC 0999C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
[Filed ARC 1694C (Notice ARC 1588C, IAB 8/20/14), IAB 10/29/14, effective 1/1/15]
[Editorial change: IAC Supplement 1/18/17]

IOWA PUBLIC INFORMATION BOARD[497]

CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

CHAPTER 2
COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

CHAPTER 3
DECLARATORY ORDERS

CHAPTER 4
CONTESTED CASES

CHAPTER 2
COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

497—2.1(23) Complaints.

2.1(1) *Form.* A complaint shall be written and signed by the person filing the complaint on forms provided by the board or shall be submitted electronically via the board's Web site. The complaint shall allege a violation of Iowa Code chapter 21 or 22; provide specific facts in support of the allegation, including the identification of persons and government entity involved in the alleged violation; and provide the specific relief sought. A complaint involving an injunction under Iowa Code section 23.5(3) shall be filed and conducted in accordance with the provisions set out in 497—Chapter 10.

2.1(2) *Board acceptance or dismissal.* Upon receipt of a written complaint alleging a violation of Iowa Code chapter 21 or 22, the board shall either:

a. Accept the complaint, following a review of the allegations on their face, having determined that the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit; or

b. Dismiss the complaint, following a review of the allegations on their face, having determined that the complaint is outside the board's jurisdiction, appears legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been disposed of on its merits by the board or a court.

2.1(3) *Delegation.* In order to expedite proceedings, the board may delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board. The board's staff may conduct an initial review of the complaint and obtain more information to assist in the decision to accept or dismiss the complaint.

2.1(4) *Notice.* If the complaint is accepted, the board shall notify the parties in writing. If the complaint is dismissed, the board shall notify the complainant in writing and explain its reasons for dismissal.

2.1(5) *Board review.* The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint and the results of the initial review conducted by the board's staff.

2.1(6) *Administrative resolution.* To assist with resolving complaints in an informal and expeditious manner, the board may, at any time during the complaint process, order administrative resolution of a matter by directing that a person take specified remedial action. A board order directing remedial action shall constitute final agency action for purposes of judicial review under Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.8.

[**ARC 0741C**, IAB 5/15/13, effective 7/1/13; **ARC 2089C**, IAB 8/5/15, effective 9/9/15; **ARC 2913C**, IAB 1/18/17, effective 2/22/17; **ARC 2914C**, IAB 1/18/17, effective 2/22/17]

497—2.2(23) Investigations—board action.

2.2(1) *Referral to staff.* Upon acceptance of a complaint, the board's staff shall work with the complainant and the subject of the complaint toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred. Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

2.2(2) *Subpoenas.* Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of books, papers, records, electronic records and other real evidence, as well as requiring the attendance and testimony of witnesses.

2.2(3) *Completion.* Upon completion of an investigation, staff shall make a report to the board and may provide a recommendation for board action.

2.2(4) *Board action.* Upon receipt and review of the staff investigative report and any recommendations, the board may:

a. Redirect the matter for further investigation;

b. Dismiss the matter for lack of probable cause to believe a violation has occurred;

c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter;

d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; or

e. Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.

[**ARC 0741C**, IAB 5/15/13, effective 7/1/13; **ARC 2139C**, IAB 9/16/15, effective 10/21/15; **ARC 2914C**, IAB 1/18/17, effective 2/22/17]

497—2.3(23) Civil penalties and other appropriate remedies. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the remedies set out in Iowa Code section 23.6(8) or 23.10(3)*"b."*

[**ARC 0741C**, IAB 5/15/13, effective 7/1/13; **ARC 2139C**, IAB 9/16/15, effective 10/21/15]

497—2.4(23) Settlements. Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations shall be conducted between the prosecutor and a governmental body or government official against whom a complaint has been filed.

2.4(1) *Board member participation.* The board may designate the chairperson or another board member to participate in settlement negotiations after initiation of a contested case.

2.4(2) *Ex parte communications.* If settlement negotiations are undertaken after a contested case has been initiated, the respondent may be required to waive any objections to ex parte communications concerning settlement discussions.

2.4(3) *Approval.* A settlement shall be in writing and is subject to approval of a majority of the board. If the board declines to approve a proposed settlement, the settlement shall be of no force or effect.

[**ARC 0741C**, IAB 5/15/13, effective 7/1/13; **ARC 2139C**, IAB 9/16/15, effective 10/21/15]

These rules are intended to implement Iowa Code chapter 23.

[Filed ARC 0741C (Notice ARC 0644C, IAB 3/20/13), IAB 5/15/13, effective 7/1/13]
[Filed ARC 2089C (Notice ARC 2011C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]
[Filed ARC 2139C (Notice ARC 2040C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]
[Filed ARC 2913C (Notice ARC 2759C, IAB 10/12/16), IAB 1/18/17, effective 2/22/17]
[Filed ARC 2914C (Notice ARC 2758C, IAB 10/12/16), IAB 1/18/17, effective 2/22/17]

CHAPTER 10
INJUNCTION REQUEST PROCEDURE

497—10.1(23) Complaint. As provided in Iowa Code section 23.5(3), when a request for an injunction to enjoin the inspection of a public record has been filed in district court under Iowa Code section 22.8, the respondent or the person requesting access to the record may remove the proceeding from district court to the board by filing a complaint within 30 days of the commencement of the judicial proceeding. The complaint shall detail the parties involved, the records sought, and the district court in which the matter was originally filed. A copy of the original court filing seeking an injunction shall be filed with the complaint. A complaint filed under this chapter is not a "complaint" triggering the procedures under 497—Chapter 2.
[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

497—10.2(23) Notice to court. Upon receipt of a complaint under this chapter, the board's staff shall file notice with the appropriate district court that the complaint has been filed with the board.
[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

497—10.3(23) Staff review. If the court issues an order removing jurisdiction of the matter to the board, the board's staff shall conduct an initial review of the complaint and may request that the parties provide further information or documents.
[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

497—10.4(23) Hearing. A hearing on the request for the injunction shall be heard before the board. The board may require briefs or the filing of other documents. The board shall work with the parties in establishing guidelines for the time of the hearing, the length of arguments, and any other procedural matters. A hearing under this rule is not a contested case under 497—Chapter 4.
[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

497—10.5(23) Board determinations. The board shall make the following determinations after hearing:

1. Whether the requested records are public records or confidential public records.
2. If the records are public records, whether an injunction should be issued enjoining the inspection of the records under the criteria set out in Iowa Code sections 22.8(1) and 22.8(3).

[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

497—10.6(23) Judicial review. The board's determinations under rule 497—10.5(23) are deemed final agency action for purposes of seeking judicial review under Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 23.5(3).
[**ARC 2913C**, IAB 1/18/17, effective 2/22/17]

[Filed ARC 2913C (Notice ARC 2759C, IAB 10/12/16), IAB 1/18/17, effective 2/22/17]

CHAPTER 61
WATER QUALITY STANDARDS

[Prior to 7/1/83, DEQ Ch 16]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

WATER QUALITY STANDARDS

567—61.1 Rescinded, effective August 31, 1977.

567—61.2(455B) General considerations.

61.2(1) *Policy statement.* It shall be the policy of the commission to protect and enhance the quality of all the waters of the state. In the furtherance of this policy it will attempt to prevent and abate the pollution of all waters to the fullest extent possible consistent with statutory and technological limitations. This policy shall apply to all point and nonpoint sources of pollution.

These water quality standards establish selected criteria for certain present and future designated uses of the surface waters of the state. The standards establish the areas where these uses are to be protected and provide minimum criteria for waterways having nondesignated uses as well. Many surface waters are designated for more than one use. In these cases the more stringent criteria shall govern for each parameter.

Certain of the criteria are in narrative form without numeric limitations. In applying such narrative standards, decisions will be based on the U.S. Environmental Protection Agency's methodology described in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," (1985) and on the rationale contained in "Quality Criteria for Water," published by the U.S. Environmental Protection Agency (1977), as updated by supplemental Section 304 (of the Act) Ambient Water Quality Criteria documents. To provide human health criteria for parameters not having numerical values listed in 61.3(3) Table 1, the required criteria will be based on the rationale contained in these EPA criteria documents. The human health criterion considered will be the value associated with the consumption of fish flesh and a risk factor of 10^{-5} for carcinogenic parameters. For noncarcinogenic parameters, the recommended EPA criterion will be selected. For Class C water, the EPA criteria for fish and water consumption will be selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above.

All methods of sample collection, preservation, and analysis used in applying any of the rules in these standards shall be in accord with those prescribed in 567—Chapter 63.

61.2(2) *Antidegradation policy.* It is the policy of the state of Iowa that:

a. Tier 1 protection. Existing surface water uses and the level of water quality necessary to protect the existing uses will be maintained and protected.

b. Tier 2 protection. Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the department shall ensure water quality adequate to protect existing uses fully. Further, the department shall ensure the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control before allowing any lowering of water quality.

c. Tier 2½ protection—outstanding Iowa waters. Where high quality waters constitute an outstanding state resource, such as waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

d. Tier 3 protection—outstanding national resource waters. Where high quality waters constitute an outstanding national resource, such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected. Any proposed activity that would result in a permanent new or expanded source of pollutants in an outstanding national resource water is prohibited.

e. Rescinded IAB 8/31/16, effective 8/12/16.

f. All unapproved facility plans for new or expanded construction permits, except for construction permits issued for nondischarging facilities, shall undergo an antidegradation review if degradation is likely in the receiving water or downstream waters following February 17, 2010.

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:

(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.

(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.

(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.

(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.

(5) For single-family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.

(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).

Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.

61.2(3) *Minimum treatment required.* All wastes discharged to the waters of the state must be of such quality that the discharge will not cause the narrative or numeric criteria limitations to be exceeded. Where the receiving waters provide sufficient assimilative capacity that the water quality standards are

not the limiting factor, all point source wastes shall receive treatment in compliance with minimum effluent standards as adopted in rules by the department.

There are numerous parameters of water quality associated with nonpoint source runoff which are of significance to the designated water uses specified in the general and specific designations in 567—61.3(455B), but which are not delineated. It shall be the intent of these standards that the limits on such nonpoint source related parameters when adopted shall be those that can be achieved by best management practices as defined in the course of the continuing planning process from time to time. Existing water quality and nonpoint source runoff control technology will be evaluated in the course of the Iowa continuing planning process, and best management practices and limitations on specific water quality parameters will be reviewed and revised from time to time to ensure that the designated water uses and water quality enhancement goals are met.

61.2(4) *Regulatory mixing zones.* Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic and human health criteria of subrule 61.3(3), Tables 1 and 3, for that particular water body or segment. A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met. For waters designated under subrule 61.3(5), any parameter not included in Tables 1, 2 and 3 of subrule 61.3(3), the chronic and human health criteria, and the acute criterion calculated following subrule 61.2(1), will be met at the mixing zone and zone of initial dilution boundaries, respectively.

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone. Additional details are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, for considering unusual site-specific features such as side channels and sand bars which may influence a mixing zone. Applications for operation permits under 567—subrule 64.3(1) may be required to provide specific information related to the mixing zone characteristics below their outfall so that mixing zone boundaries can be determined.

b. For parameters included in Table 1 only (which does not include ammonia nitrogen), the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

(1) The stream flow in the mixing zone may not exceed the most restrictive of the following:

1. Twenty-five percent of the design low stream flows noted in subrule 61.2(5) for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

2. Ten percent of the design low stream flows noted in subrule 61.2(5) for the Mississippi and Missouri Rivers.

3. The stream flow contained in the mixing zone at the most restrictive of the applicable mixing zone length criteria, noted below.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

1. The distance to the juncture of two perennial streams.

2. The distance to a public water supply intake.

3. The distance to the upstream limits of an established recreational area, such as public beaches, and state, county and local parks.

4. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.

5. The distance to another mixing zone.

6. Not to exceed a distance of 2000 feet.

7. The location where the mixing zone contained the percentages of stream flow noted in 61.2(4)*"b"*(1).

(3) The width of the mixing zone is calculated as the portion of the stream containing the allowed mixing zone stream flow. The mixing zone width will be measured perpendicular to the basic direction of stream flow at the downstream boundary of the mixing zone. This measurement will only consider the distance of continuous water surface.

(4) The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

c. The stream flow used in determining wasteload allocations to ensure compliance with the maximum contaminant level (MCL), chronic and human health criteria of Table 1 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the following percentages of the design low stream flow as measured at the point of discharge:

(1) Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

(2) Ten percent for the Mississippi and Missouri Rivers.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 1 may not exceed 10 percent of the calculated flow associated with the mixing zone.

d. For toxic parameters noted in Table 1, the following exceptions apply to the mixing zone requirements:

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold water.

(3) The use of a diffuser device to promote rapid mixing of an effluent in a receiving stream will be considered on a case-by-case basis with its usage as a means for dischargers to comply with an acute numerical criterion.

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi or Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

e. For ammonia criteria noted in Table 3, the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

(1) The stream flow in the mixing zone may not exceed the most restrictive of the following:

1. One hundred percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is less than or equal to 2:1.

2. Fifty percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is greater than 2:1, but less than or equal to 5:1.

3. Twenty-five percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is greater than 5:1.

4. The stream flow contained in the mixing zone at the most restrictive of the applicable mixing zone length criteria, noted below.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

1. The distance to the juncture of two perennial streams.
2. The distance to a public water supply intake.
3. The distance to the upstream limits of an established recreational area, such as public beaches, and state, county, and local parks.
4. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.
5. The distance to another mixing zone.
6. Not to exceed a distance of 2000 feet.
7. The location where the mixing zone contained the percentages of stream flow noted in 61.2(4)*"e"*(1).

(3) The width of the mixing zone is calculated as the portion of the stream containing the allowed mixing zone stream flow. The mixing zone width will be measured perpendicular to the basic direction of stream flow at the downstream boundary of the mixing zone. This measurement will only consider the distance of continuous water surface.

(4) The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

f. For ammonia criteria noted in Table 3, the stream flow used in determining wasteload allocations to ensure compliance with the chronic criteria of Table 3 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the percentages of the design low stream flow noted in 61.2(4)*"e"*(1) as measured at the point of discharge.

The pH and temperature values at the boundary of the mixing zone used to select the chronic ammonia criteria of Table 3 will be from one of the following sources. The source of the pH and temperature data will follow the sequence listed below, if applicable data exists from the source.

(1) Specific pH and temperature data provided by the applicant gathered at their mixing zone boundary. Procedures for obtaining this data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

(2) Regional background pH and temperature data provided by the applicant gathered along the receiving stream and representative of the background conditions at the outfall. Procedures for obtaining this data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

(3) The statewide average background values presented in Table IV-2 of the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 3 may not exceed 5 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of less than or equal to 2:1, and not exceed 10 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of greater than 2:1. The pH and temperature values at the boundary of the zone of initial dilution used to select the acute ammonia criteria of Table 3 will be from one of the following sources and follow the sequence listed below, if applicable data exists from the source.

1. Specific effluent pH and temperature data if the dilution ratio is less than or equal to 2:1.
2. If the dilution ratio is greater than 2:1, the logarithmic average pH of the effluent and the regional or statewide pH provided in 61.2(4)*"f"* will be used. In addition, the flow proportioned average temperature of the effluent and the regional or statewide temperature provided in 61.2(4)*"f"* will be used. The procedures for calculating these data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

g. For ammonia criteria noted in Table 3, the following exceptions apply to the mixing zone requirements.

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold water.

(3) The use of a diffuser device to promote rapid mixing of an effluent in a receiving stream will be considered on a case-by-case basis with its usage as a means for dischargers to comply with an acute numerical criterion.

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi and Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

h. Temperature changes within mixing zones established for heat dissipation will not exceed the temperature criteria in 61.3(3)*"b"*(5).

i. The appropriateness of establishing a mixing zone where a substance discharged is bioaccumulative, persistent, carcinogenic, mutagenic, or teratogenic will be carefully evaluated. In such cases, effects such as potential groundwater contamination, sediment deposition, fish attraction, bioaccumulation in aquatic life, bioconcentration in the food chain, and known or predicted safe exposure levels shall be considered.

61.2(5) *Implementation strategy.* Numerical criteria specified in these water quality standards shall be met when the flow of the receiving stream equals or exceeds the design low flows noted below.

Type of Numerical Criteria	Design Low Flow Regime
Aquatic Life Protection (TOXICS)	
Acute	$1Q_{10}$
Chronic	$7Q_{10}$
Aquatic Life Protection (AMMONIA - N)	
Acute	$1Q_{10}$
Chronic	$30Q_{10}$
Human Health Protection & MCL	
Noncarcinogenic	$30Q_5$
Carcinogenic	Harmonic mean

a. The allowable 3°C temperature increase criterion for warm water interior streams, 61.3(3)*"b"*(5)"1," is based in part on the need to protect fish from cold shock due to rapid cessation of heat source and resultant return of the receiving stream temperature to natural background temperature. On low flow streams, in winter, during certain conditions of relatively cold background stream temperature and relatively warm ambient air and groundwater temperature, certain wastewater treatment plants with relatively constant flow and constant temperature discharges will cause temperature increases in the receiving stream greater than allowed in 61.3(3)*"b"*(5)"1."

b. During the period November 1 to March 31, for the purpose of applying the 3°C temperature increase criterion, the minimum protected receiving stream flow rate below such discharges may be increased to not more than three times the rate of flow of the discharge, where there is reasonable assurance that the discharge is of such constant temperature and flow rate and continuous duration as to not constitute a threat of heat cessation and not cause the receiving stream temperature to vary more than 3°C per day.

c. Site-specific water quality criteria may be allowed in lieu of the specific numerical criteria listed in Tables 1 and 3 of this chapter if adequate documentation is provided to show that the proposed criteria will protect all existing or potential uses of the surface water. Site-specific water quality criteria may be appropriate where:

(1) The types of organisms differ significantly from those used in setting the statewide criteria; or

(2) The chemical characteristics of the surface water such as pH, temperature, and hardness differ significantly from the characteristics used in setting the statewide criteria.

Development of site-specific criteria shall include an evaluation of the chemical and biological characteristics of the water resource and an evaluation of the impact of the discharge. All evaluations for site-specific criteria modification must be coordinated through the department, and be conducted using scientifically accepted procedures approved by the department. Any site-specific criterion developed under the provisions of this subrule is subject to the review and approval of the U.S. Environmental Protection Agency. All criteria approved under the provisions of this subrule will be published periodically by the department. Guidelines for establishing site-specific water quality criteria can be found in "Water Quality Standards Handbook," published by the U.S. Environmental Protection Agency, December 1983.

d. A wastewater treatment facility may submit to the department technically valid instream data which provides additional information to be used in the calculations of their wasteload allocations and effluent limitations. This information would be in association with the low flow characteristics, width, length and time of travel associated with the mixing zone or decay rates of various effluent parameters. The wasteload allocation will be calculated considering the applicable data and consistent with the provisions and restrictions in the rules.

e. The department may perform use assessment and related use attainability analyses on water bodies where uses may not be known or adequately documented. The preparation of use attainability analysis documents will consider available U.S. Environmental Protection Agency guidance or other applicable guidance. Credible data and documentation will be used to assist in the preparation of use assessments and use attainability analysis reports.

[**ARC 8214B**, IAB 10/7/09, effective 11/11/09; **ARC 8466B**, IAB 1/13/10, effective 2/17/10; **ARC 9330B**, IAB 1/12/11, effective 2/16/11 (See Delay note at the end of chapter); **ARC 0121C**, IAB 5/16/12, effective 6/20/12; **ARC 1495C**, IAB 6/11/14, effective 7/16/14; **ARC 2695C**, IAB 8/31/16, effective 8/12/16]

567—61.3(455B) Surface water quality criteria.

61.3(1) *Surface water classification.* All waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments.

a. General use segments. These are intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation and whose channels are normally above the water table. These waters do not support a viable aquatic community during low flow and do not maintain pooled conditions during periods of no flow.

The general use segments are to be protected for livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, agricultural, domestic and other incidental water withdrawal uses.

b. Designated use segments. These are water bodies which maintain flow throughout the year or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community.

All perennial rivers and streams as identified by the U.S. Geological Survey 1:100,000 DLG Hydrography Data Map (published July 1993) or intermittent streams with perennial pools in Iowa not specifically listed in the surface water classification of 61.3(5) are designated as Class B(WW-1) waters.

All perennial rivers and streams as identified by the U.S. Geological Survey 1:100,000 DLG Hydrography Data Map (published July 1993) or intermittent streams with perennial pools in Iowa are designated as Class A1 waters.

Designated uses of segments may change based on a use attainability analysis consistent with 61.2(5)*"e."* Designated use changes will be specifically listed in the surface water classification of 61.3(5).

Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Designated use segments include:

(1) Primary contact recreational use (Class "A1"). Waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

(2) Secondary contact recreational use (Class "A2"). Waters in which recreational or other uses may result in contact with the water that is either incidental or accidental. During the recreational use,

the probability of ingesting appreciable quantities of water is minimal. Class A2 uses include fishing, commercial and recreational boating, any limited contact incidental to shoreline activities and activities in which users do not swim or float in the water body while on a boating activity.

(3) Children's recreational use (Class "A3"). Waters in which recreational uses by children are common. Class A3 waters are water bodies having definite banks and bed with visible evidence of the flow or occurrence of water. This type of use would primarily occur in urban or residential areas.

(4) Cold water aquatic life—Type 1 (Class "B(CW1)"). Waters in which the temperature and flow are suitable for the maintenance of a variety of cold water species, including reproducing and nonreproducing populations of trout (*Salmonidae* family) and associated aquatic communities.

(5) Cold water aquatic life—Type 2 (Class "B(CW2)"). Waters that include small, channeled streams, headwaters, and spring runs that possess natural cold water attributes of temperature and flow. These waters usually do not support consistent populations of trout (*Salmonidae* family), but may support associated vertebrate and invertebrate organisms.

(6) Warm water—Type 1 (Class "B(WW-1)"). Waters in which temperature, flow and other habitat characteristics are suitable to maintain warm water game fish populations along with a resident aquatic community that includes a variety of native nongame fish and invertebrate species. These waters generally include border rivers, large interior rivers, and the lower segments of medium-size tributary streams.

(7) Warm water—Type 2 (Class "B(WW-2)"). Waters in which flow or other physical characteristics are capable of supporting a resident aquatic community that includes a variety of native nongame fish and invertebrate species. The flow and other physical characteristics limit the maintenance of warm water game fish populations. These waters generally consist of small perennially flowing streams.

(8) Warm water—Type 3 (Class "B(WW-3)"). Waters in which flow persists during periods when antecedent soil moisture and groundwater discharge levels are adequate; however, aquatic habitat typically consists of nonflowing pools during dry periods of the year. These waters generally include small streams of marginally perennial aquatic habitat status. Such waters support a limited variety of native fish and invertebrate species that are adapted to survive in relatively harsh aquatic conditions.

(9) Lakes and wetlands (Class "B(LW)"). These are artificial and natural impoundments with hydraulic retention times and other physical and chemical characteristics suitable to maintain a balanced community normally associated with lake-like conditions.

(10) Human health (Class "HH"). Waters in which fish are routinely harvested for human consumption or waters both designated as a drinking water supply and in which fish are routinely harvested for human consumption.

(11) Drinking water supply (Class "C"). Waters which are used as a raw water source of potable water supply.

61.3(2) *General water quality criteria.* The following criteria are applicable to all surface waters including general use and designated use waters, at all places and at all times for the uses described in 61.3(1)*"a."*

a. Such waters shall be free from substances attributable to point source wastewater discharges that will settle to form sludge deposits.

b. Such waters shall be free from floating debris, oil, grease, scum and other floating materials attributable to wastewater discharges or agricultural practices in amounts sufficient to create a nuisance.

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectionable color, odor or other aesthetically objectionable conditions.

d. Such waters shall be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic to human, animal, or plant life.

e. Such waters shall be free from substances, attributable to wastewater discharges or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

f. The turbidity of the receiving water shall not be increased by more than 25 Nephelometric turbidity units by any point source discharge.

g. Cations and anions guideline values to protect livestock watering may be found in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

h. The Escherichia coli (E. coli) content of water which enters a sinkhole or losing stream segment, regardless of the water body's designated use, shall not exceed a Geometric Mean value of 126 organisms/100 ml or a sample maximum value of 235 organisms/100 ml. No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

61.3(3) *Specific water quality criteria.*

a. Class "A" waters. Waters which are designated as Class "A1," "A2," or "A3" in subrule 61.3(5) are to be protected for primary contact, secondary contact, and children's recreational uses. The general criteria of subrule 61.3(2) and the following specific criteria apply to all Class "A" waters.

(1) The Escherichia coli (E. coli) content shall not exceed the levels noted in the Bacteria Criteria Table when the Class "A1," "A2," or "A3" uses can reasonably be expected to occur.

Bacteria Criteria Table (organisms/100 ml of water)

Use or Category	Geometric Mean	Sample Maximum
Class A1		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A2 (Only)		
3/15 – 11/15	630	2880
11/16 – 3/14	Does not apply	Does not apply
[Class A2 and B(CW)] or OIW or ONRW		
Year-Round	630	2880
Class A3		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A1 - Primary Contact Recreational Use Class A2 - Secondary Contact Recreational Use Class A3 - Children's Recreational Use		

When a water body is designated for more than one of the recreational uses, the most stringent criteria for the appropriate season shall apply.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

b. Class "B" waters. All waters which are designated as Class B(CW1), B(CW2), B(WW-1), B(WW-2), B(WW-3) or B(LW) are to be protected for wildlife, fish, aquatic, and semiaquatic life. The following criteria shall apply to all Class "B" waters designated in subrule 61.3(5).

(1) Dissolved oxygen. Dissolved oxygen shall not be less than the values shown in Table 2 of this subrule.

(2) pH. The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

(3) General chemical constituents. The specific numerical criteria shown in Tables 1, 2, and 3 of this subrule apply to all waters designated in subrule 61.3(5). The sole determinant of compliance with these criteria will be established by the department on a case-by-case basis. Effluent monitoring or instream monitoring, or both, will be the required approach to determine compliance.

1. The acute criteria represent the level of protection necessary to prevent acute toxicity to aquatic life. Instream concentrations above the acute criteria will be allowed only within the boundaries of the zone of initial dilution.

2. The chronic criteria represent the level of protection necessary to prevent chronic toxicity to aquatic life. Excursions above the chronic criteria will be allowed only inside of mixing zones or only for short-term periods outside of mixing zones; however, these excursions cannot exceed the acute criteria shown in Tables 1 and 3. The chronic criteria will be met as short-term average conditions at all times the flow equals or exceeds either the design flows noted in subrule 61.2(5) or any site-specific low flow established under the provisions of subrule 61.2(5).

3. Rescinded IAB 2/15/06, effective 3/22/06.

(4) Rescinded IAB 2/15/06, effective 3/22/06.

(5) Temperature.

1. No heat shall be added to interior streams or the Big Sioux River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 32°C.

2. No heat shall be added to streams designated as cold water fisheries that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 20°C.

3. No heat shall be added to lakes and reservoirs that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the temperature of the lake or reservoirs above 32°C.

4. No heat shall be added to the Missouri River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added that would raise the stream temperature above 32°C.

5. No heat shall be added to the Mississippi River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In addition, the water temperature at representative locations in the Mississippi River shall not exceed the maximum limits in the table below during more than 1 percent of the hours in the 12-month period ending with any month. Moreover, at no time shall the water temperature at such locations exceed the maximum limits in the table below by more than 2°C.

Zone II—Iowa-Minnesota state line to the northern Illinois border (Mile Point 1534.6).

Zone III—Northern Illinois border (Mile Point 1534.6) to Iowa-Missouri state line.

Month	Zone II	Zone III
January	4°C	7°C
February	4°C	7°C
March	12°C	14°C
April	18°C	20°C
May	24°C	26°C
June	29°C	29°C
July	29°C	30°C
August	29°C	30°C
September	28°C	29°C
October	23°C	24°C
November	14°C	18°C
December	9°C	11°C

(6) Early life stage for each use designation. The following seasons will be used in applying the early life stage present chronic criteria noted in Table 3b, "Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Present."

1. For all Class B(CW1) waters, the early life stage will be year-round.

2. For all Class B(CW2) waters, the early life stage will begin on April 1 and last through September 30.

3. For all Class B(WW-1) waters, the early life stage will begin in March and last through September, except as follows:

- For the following, the early life stage will begin in February and last through September:

—The entire length of the Mississippi and Missouri Rivers,

—The lower reach of the Des Moines River south of the Ottumwa dam, and

—The lower reach of the Iowa River below the Cedar River.

- For the following, the early life stage will begin in April and last through September:

—All Class B(WW-1) waters in the Southern Iowa River Basin,

—All of the Class B(WW-1) reach of the Skunk River, the North Skunk River and the South Skunk River south of Indian Creek (Jasper County), and the Class B(WW-1) tributaries to these reaches, and the entire Class B(WW-1) reach of the English River.

4. For all Class B(WW-2) and Class B(WW-3) waters, the early life stage will begin in April and last through September.

5. For all Class B(LW) lake and wetland waters, the early life stage will begin in March and last through September except for the Class B(LW) waters in the southern two tiers of Iowa counties which will have the early life stage of April through September.

c. Class "C" waters. Waters which are designated as Class "C" are to be protected as a raw water source of potable water supply. The following criteria shall apply to all Class "C" waters designated in subrule 61.3(5).

(1) Radioactive substances.

1. The combined radium-226 and radium-228 shall not exceed 5 picocuries per liter at the point of withdrawal.

2. Gross alpha particle activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocuries per liter at the point of withdrawal.

3. The average annual concentration at the point of withdrawal of beta particle and photon radioactivity from man-made radionuclides other than tritium and strontium-90 shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

4. The average annual concentration of tritium shall not exceed 20,000 picocuries per liter at the point of withdrawal; the average annual concentration of strontium-90 shall not exceed 8 picocuries per liter at the point of withdrawal.

(2) All substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(3) The pH shall not be less than 6.5 nor greater than 9.0.

d. Class "HH" waters. Waters which are designated as Class HH shall contain no substances in concentrations which will make fish or shellfish inedible due to undesirable tastes or cause a hazard to humans after consumption.

(1) The human health criteria represent the level of protection necessary, in the case of noncarcinogens, to prevent adverse health effects in humans and, in the case of carcinogens, to prevent a level of incremental cancer risk not exceeding 1 in 100,000. Instream concentrations in excess of the human health criteria will be allowed only within the boundaries of the mixing zone.

(2) Reserved.

TABLE 1. Criteria for Chemical Constituents

(all values as micrograms per liter as total recoverable unless noted otherwise)

Human health criteria for carcinogenic parameters noted below were based on the prevention of an incremental cancer risk of 1 in 100,000. For parameters not having a noted human health criterion, the U.S. Environmental Protection Agency has not developed final national human health guideline values. For noncarcinogenic parameters, the recommended EPA criterion was selected. For Class C waters, the EPA criteria for fish and water consumption were selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above. For Class C waters for which no EPA human health criteria were available, the EPA MCL value was selected.

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
Alachlor	MCL	—	—	—	—	—	—	2	—
Aldrin	Acute	—	—	3	3	3	—	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00050[e]
	Human Health + — F & W	—	—	—	—	—	—	—	.00049[f]
Aluminum	Chronic	87	—	87	87	87	748	—	—
	Acute	1106	—	750	750	750	983	—	—
Antimony	Human Health — Fish	—	—	—	—	—	—	—	640[e]
	Human Health + — F & W	—	—	—	—	—	—	—	5.6[f]
Arsenic (III)	Chronic	200	—	150	150	150	200	—	—
	Acute	360	—	340	340	340	360	—	—
	Human Health — Fish	—	—	—	—	—	—	—	50[e][g]
	Human Health — F & W	—	—	—	—	—	—	—	.18[f][g]
Asbestos	Human Health — F & W	—	—	—	—	—	—	—	7[a][f]
Atrazine	MCL	—	—	—	—	—	—	3	—
Barium	Human Health + — F & W	—	—	—	—	—	—	—	1000[f]
Benzene	Human Health — F & W	—	—	—	—	—	—	—	22[f]
	Human Health — Fish	—	—	—	—	—	—	—	510[e]
Benzo(a)Pyrene	Human Health — F & W	—	—	—	—	—	—	—	.038[f]
	Human Health — Fish	—	—	—	—	—	—	—	.18[e]
Beryllium	MCL	—	—	—	—	—	—	4	—
Bromoform	Human Health — F & W	—	—	—	—	—	—	—	43[f]
	Human Health — Fish	—	—	—	—	—	—	—	1400[e]
Cadmium	Chronic	1	—	.45[h]	.45[h]	.45[h]	1	—	—
	Acute	4	—	4.32[h]	4.32[h]	4.32[h]	4	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	168[e]
	MCL	—	—	—	—	—	—	5	—
Carbofuran	MCL	—	—	—	—	—	—	40	—
Carbon Tetrachloride	Human Health — F & W	—	—	—	—	—	—	—	2.3[f]
	Human Health — Fish	—	—	—	—	—	—	—	16[e]
Chlordane	Chronic	.004	—	.0043	.0043	.0043	.004	—	—
	Acute	2.5	—	2.4	2.4	2.4	2.5	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0081[e]
	Human Health — F & W	—	—	—	—	—	—	—	.008[f]

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
Chloride	Chronic	389(m)*	389(m)*	389(m)*	389(m)*	389(m)*	389(m)*	—	—
	Acute	629(m)*	629(m)*	629(m)*	629(m)*	629(m)*	629(m)*	—	—
	MCL	—	—	—	—	—	—	250*	—
Chlorobenzene	Human Health + — Fish	—	—	—	—	—	—	—	1.6*(e)
	Human Health + — F & W	—	—	—	—	—	—	—	130(f)
	MCL	—	—	—	—	—	—	100	—
Chlorodibromomethane	Human Health — F & W	—	—	—	—	—	—	—	4.0(f)
	Human Health — Fish	—	—	—	—	—	—	—	130(e)
Chloroform	Human Health — F & W	—	—	—	—	—	—	—	57(f)
	Human Health — Fish	—	—	—	—	—	—	—	4700(e)
Chloropyrifos	Chronic	.041	—	.041	.041	.041	.041	—	—
	Acute	.083	—	.083	.083	.083	.083	—	—
Chromium (VI)	Chronic	40	—	11	11	11	10	—	—
	Acute	60	—	16	16	16	15	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	3365(e)
	MCL	—	—	—	—	—	—	100	—
Copper	Chronic(n)	20	—	16.9(i)	16.9(i)	16.9(i)	10	—	—
	Acute(n)	30	—	26.9(i)	26.9(i)	26.9(i)	20	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	1000(e)
	Human Health + — F & W	—	—	—	—	—	—	—	1300(f)
Cyanide	Chronic	5	—	5.2	5.2	5.2	10	—	—
	Acute	20	—	22	22	22	45	—	—
	Human Health + — F & W	—	—	—	—	—	—	—	140(f)
	Human Health — Fish	—	—	—	—	—	—	—	140(e)
Dalapon	MCL	—	—	—	—	—	—	200	—
Dibromochloropropane	MCL	—	—	—	—	—	—	.2	—
4,4-DDT ++	Chronic	.001	—	.001	.001	.001	.001	—	—
	Acute	.9	—	1.1	1.1	1.1	.55	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0022(e)
	Human Health — F & W	—	—	—	—	—	—	—	.0022(f)
o-Dichlorobenzene	MCL	—	—	—	—	—	—	600	—

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
para-Dichlorobenzene	Human Health + — F & W	—	—	—	—	—	—	—	63(f)
	Human Health + — Fish	—	—	—	—	—	—	—	190(e)
3,3-Dichlorobenzidine	Human Health — Fish	—	—	—	—	—	—	—	.28(e)
	Human Health — F & W	—	—	—	—	—	—	—	.21(f)
Dichlorobromomethane	Human Health — F & W	—	—	—	—	—	—	—	5.5(f)
	Human Health — Fish	—	—	—	—	—	—	—	170(e)
1,2-Dichloroethane	Human Health — F & W	—	—	—	—	—	—	—	3.8(f)
	Human Health — Fish	—	—	—	—	—	—	—	370(e)
1,1-Dichloroethylene	Human Health — F & W	—	—	—	—	—	—	—	330(f)
	Human Health — Fish	—	—	—	—	—	—	—	7.1*(e)
cis-1,2-Dichloroethylene	MCL	—	—	—	—	—	—	70	—
1,2-trans-Dichlorethylene	Human Health + — F & W	—	—	—	—	—	—	—	10*(f)
	Human Health — Fish	—	—	—	—	—	—	—	140(e)
Dichloromethane	MCL	—	—	—	—	—	—	5	—
1,2-Dichloropropane	Human Health — F & W	—	—	—	—	—	—	—	5.0(f)
	Human Health — Fish	—	—	—	—	—	—	—	150(e)
Dieldrin	Chronic	.056	—	.056	.056	.056	.056	—	—
	Acute	.24	—	.24	.24	.24	.24	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00054(e)
	Human Health — F & W	—	—	—	—	—	—	—	.00052(f)
Dinoseb	MCL	—	—	—	—	—	—	7	—
2,3,7,8-TCDD (Dioxin)	Human Health — F & W	—	—	—	—	—	—	—	5.0^{-8}(f)
	Human Health — Fish	—	—	—	—	—	—	—	5.1^{-8}(e)
Diquat	MCL	—	—	—	—	—	—	20	—
2,4-D	Human Health + — F & W	—	—	—	—	—	—	—	100(f)
Endosulfan(b)	Chronic	.056	—	.056	.056	.056	.15	—	—
	Acute	.11	—	.22	.22	.22	.3	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	89(e)
	Human Health + — F & W	—	—	—	—	—	—	—	62(f)
Endothall	MCL	—	—	—	—	—	—	100	—
Endrin	Chronic	.05	—	.036	.036	.036	.036	—	—
	Acute	.12	—	.086	.086	.086	.086	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.06(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.059(f)

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
Ethylbenzene	Human Health + — F & W	—	—	—	—	—	—	—	530[f]
	Human Health — Fish	—	—	—	—	—	—	—	2100[e]
Ethylene dibromide	MCL	—	—	—	—	—	—	.05	—
Di(2-ethylhexyl)adipate	MCL	—	—	—	—	—	—	400	—
bis(2-ethylhexyl)phthalate	Human Health — F & W	—	—	—	—	—	—	—	12[f]
	Human Health — Fish	—	—	—	—	—	—	—	22[e]
Fluoride	MCL	—	—	—	—	—	—	4000	—
Glyphosate	MCL	—	—	—	—	—	—	700	—
Heptachlor	Chronic	.0038	—	.0038	.0038	.0038	.0038	—	—
	Acute	.38	—	.52	.52	.52	.38	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00079[e]
	Human Health — F & W	—	—	—	—	—	—	—	.00079[f]
Heptachlor epoxide	Chronic	.0038	—	.0038	.0038	.0038	.0038	—	—
	Acute	.52	—	.52	.52	.52	.52	—	—
	Human Health — F & W	—	—	—	—	—	—	—	.00039[f]
	Human Health — Fish	—	—	—	—	—	—	—	.00039[e]
Hexachlorobenzene	Human Health — F & W	—	—	—	—	—	—	—	.0028[f]
	Human Health — Fish	—	—	—	—	—	—	—	.0029[e]
Hexachlorocyclopentadiene	Human Health — F & W	—	—	—	—	—	—	—	40[f]
	Human Health — Fish	—	—	—	—	—	—	—	1100[e]
Lead	Chronic	3	—	7.7[j]	7.7[j]	7.7[j]	3	—	—
	Acute	80	—	197[j]	197[j]	197[j]	80	—	—
	MCL	—	—	—	—	—	—	50	—
gamma-BHC (Lindane)	Chronic	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute	.95	—	.95	.95	.95	.95	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	1.8[e]
	Human Health + — F & W	—	—	—	—	—	—	—	.98[f]
Mercury (II)	Chronic	3.5	—	.9	.9	.9	.91	—	—
	Acute	6.5	—	1.64	1.64	1.64	1.7	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.15[e]
	Human Health + — F & W	—	—	—	—	—	—	—	.05[f]
Methoxychlor	Human Health + — F & W	—	—	—	—	—	—	—	100[f]
Nickel	Chronic	350	—	93[k]	93[k]	93[k]	150	—	—
	Acute	3250	—	843[k]	843[k]	843[k]	1400	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	4600[e]
	Human Health + — F & W	—	—	—	—	—	—	—	610[f]

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
Nitrate as N	MCL	—	—	—	—	—	—	10*	—
Nitrate + Nitrite as N	MCL	—	—	—	—	—	—	10*	—
Nitrite as N	MCL	—	—	—	—	—	—	1*	—
Oxamyl (Vydate)	MCL	—	—	—	—	—	—	200	—
Parathion	Chronic	.013	—	.013	.013	.013	.013	—	—
	Acute	.065	—	.065	.065	.065	.065	—	—
Pentachlorophenol (PCP)	Chronic	(d)	—	(d)	(d)	(d)	(d)	—	—
	Acute	(d)	—	(d)	(d)	(d)	(d)	—	—
	Human Health — Fish	—	—	—	—	—	—	—	30[e]
	Human Health — F & W	—	—	—	—	—	—	—	2.7[f]
Phenols	Chronic	50	—	50	50	50	50	—	—
	Acute	1000	—	2500	2500	2500	1000	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	1700*[e]
	Human Health + — F & W	—	—	—	—	—	—	—	21*[f]
Picloram	MCL	—	—	—	—	—	—	500	—
Polychlorinated	Chronic	.014	—	.014	.014	.014	.014	—	—
Biphenyls (PCBs)	Acute	2	—	2	2	2	2	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00064[e]
	Human Health — F & W	—	—	—	—	—	—	—	.00064[f]
Polynuclear Aromatic	Chronic	.03	—	.03	3	3	.03	—	—
Hydrocarbons (PAHs)**	Acute	30	—	30	30	30	30	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.18[e]
	Human Health — F & W	—	—	—	—	—	—	—	.038[f]
Selenium	Chronic	10	—	5	5	5	70	—	—
	Acute	15	—	19.3	19.3	19.3	100	—	—
	Human Health + — F & W	—	—	—	—	—	—	—	170[f]
	Human Health + — Fish	—	—	—	—	—	—	—	4200[e]
Silver	Chronic	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute	30	—	3.8	3.8	3.8	4	—	—
	MCL	—	—	—	—	—	—	50	—
2,4,5-TP (Silvex)	MCL	—	—	—	—	—	—	10	—
Simazine	MCL	—	—	—	—	—	—	4	—
Styrene	MCL	—	—	—	—	—	—	100	—

Parameter		Use Designations							
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	HH
Tetracholorethylene	Human Health — F & W	—	—	—	—	—	—	—	6.9[f]
	Human Health — Fish	—	—	—	—	—	—	—	33[e]
Thallium	Human Health + — F & W	—	—	—	—	—	—	—	.24[f]
	Human Health + — Fish	—	—	—	—	—	—	—	.47[e]
Toluene	Chronic	50	—	50	150	150	50	—	—
	Acute	2500	—	2500	7500	7500	2500	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	15*[e]
	Human Health + — F & W	—	—	—	—	—	—	—	1300[f]
Total Residual	Chronic	10	—	11	11	11	10	—	—
Chlorine (TRC)	Acute	35	—	19	19	19	20	—	—
Toxaphene	Chronic	.037	—	.002	.002	.002	.037	—	—
	Acute	.73	—	.73	.73	.73	.73	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0028[e]
	Human Health — F & W	—	—	—	—	—	—	—	.0028[f]
1,2,4-Trichlorobenzene	MCL	—	—	—	—	—	—	70	—
1,1,1-Trichlorethane	MCL	—	—	—	—	—	—	200	—
	Human Health + — Fish	—	—	—	—	—	—	—	173*[e]
1,1,2-Trichloroethane	Human Health — F & W	—	—	—	—	—	—	—	6[f]
Trichloroethylene (TCE)	Chronic	80	—	80	80	80	80	—	—
	Acute	4000	—	4000	4000	4000	4000	—	—
	Human Health — Fish	—	—	—	—	—	—	—	300[e]
	Human Health — F & W	—	—	—	—	—	—	—	25[f]
Trihalomethanes (total)[c]	MCL	—	—	—	—	—	—	80	—
Vinyl Chloride	Human Health — F & W	—	—	—	—	—	—	—	.25[f]
	Human Health — Fish	—	—	—	—	—	—	—	24[e]
Xylenes (Total)	MCL	—	—	—	—	—	—	10*	—
Zinc	Chronic	200	—	215[l]	215[l]	215[l]	100	—	—
	Acute	220	—	215[l]	215[l]	215[l]	110	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	26*[e]
	Human Health + — F & W	—	—	—	—	—	—	—	7.4*[f]

* units expressed as milligrams/liter

** to include the sum of known and suspected carcinogenic PAHs (includes benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene)

† expressed as nanograms/liter

+ represents the noncarcinogenic human health parameters

++ The concentrations of 4,4-DDT or its metabolites; 4,4-DDE and 4,4-DDD, individually shall not exceed the human health criteria.

(a) units expressed as million fibers/liter (longer than 10 micrometers)

(b) includes alpha-endosulfan, beta-endosulfan, and endosulfan sulfate in combination or as individually measured

(c) The sum of the four trihalomethanes (bromoform [tribromomethane], chlorodibromomethane, chloroform [trichloromethane], and dichlorobromomethane) may not exceed the MCL.

(d) Class B numerical criteria for pentachlorophenol are a function of pH using the equation: Criterion (µg/l) = $e^{[1.005(pH) - x]}$, where e = 2.71828 and x varies according to the following table:

	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)
Acute	3.869	—	4.869	4.869	4.869	4.869
Chronic	4.134	—	5.134	5.134	5.134	5.134

(e) This Class HH criterion would be applicable to any Class B(LW), B(CW1), B(WW-1), B(WW-2), or B(WW-3) water body that is also designated Class HH.

(f) This Class HH criterion would be applicable to any Class C water body that is also designated Class HH.

(g) inorganic form only

(h) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)). Numerical criteria (µg/l) for cadmium are a function of hardness (as $CaCO_3$ (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[1.0166Ln(Hardness) - 3.924]}$	$e^{[1.0166Ln(Hardness) - 3.924]}$	$e^{[1.0166Ln(Hardness) - 3.924]}$
Chronic	$e^{[0.7409Ln(Hardness) - 4.719]}$	$e^{[0.7409Ln(Hardness) - 4.719]}$	$e^{[0.7409Ln(Hardness) - 4.719]}$

(i) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)). Numerical criteria (µg/l) for copper are a function of hardness ($CaCO_3$ (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.9422Ln(Hardness) - 1.700]}$	$e^{[0.9422Ln(Hardness) - 1.700]}$	$e^{[0.9422Ln(Hardness) - 1.700]}$
Chronic	$e^{[0.8545Ln(Hardness) - 1.702]}$	$e^{[0.8545Ln(Hardness) - 1.702]}$	$e^{[0.8545Ln(Hardness) - 1.702]}$

(j) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)). Numerical criteria (µg/l) for lead are a function of hardness ($CaCO_3$ (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[1.2731Ln(Hardness) - 1.46]}$	$e^{[1.2731Ln(Hardness) - 1.46]}$	$e^{[1.2731Ln(Hardness) - 1.46]}$
Chronic	$e^{[1.2731Ln(Hardness) - 4.705]}$	$e^{[1.2731Ln(Hardness) - 4.705]}$	$e^{[1.2731Ln(Hardness) - 4.705]}$

(k) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)). Numerical criteria (µg/l) for nickel are a function of hardness ($CaCO_3$ (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.846Ln(Hardness) + 2.255]}$	$e^{[0.846Ln(Hardness) + 2.255]}$	$e^{[0.846Ln(Hardness) + 2.255]}$
Chronic	$e^{[0.846Ln(Hardness) + 0.0584]}$	$e^{[0.846Ln(Hardness) + 0.0584]}$	$e^{[0.846Ln(Hardness) + 0.0584]}$

(l) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)). Numerical criteria (µg/l) for zinc are a function of hardness ($CaCO_3$ (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.8473Ln(Hardness) + 0.884]}$	$e^{[0.8473Ln(Hardness) + 0.884]}$	$e^{[0.8473Ln(Hardness) + 0.884]}$
Chronic	$e^{[0.8473Ln(Hardness) + 0.884]}$	$e^{[0.8473Ln(Hardness) + 0.884]}$	$e^{[0.8473Ln(Hardness) + 0.884]}$

(m) Acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as $CaCO_3$ (mg/l)) and a sulfate concentration of 63 mg/l. Numerical criteria (µg/l) for chloride are a function of hardness ($CaCO_3$ (mg/l)) and sulfate (mg/l) using the equation for each use according to the following table:

	B(CW1), B(CW2), B(WW-1), B(WW-2). B(WW-3), B(LW)
Acute	$287.8(Hardness)^{0.205797}(Sulfate)^{-0.07452}$
Chronic	$177.87(Hardness)^{0.205797}(Sulfate)^{-0.07452}$

(n) The copper criteria in Table 1 can be adjusted by a Water-Effect Ratio (WER). The WER factor is equal to 1.0 unless an approved WER study has been conducted by a permittee for a specific point source. The WER study shall be conducted in accordance with the "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals (EPA-823-B-94-001), February 22, 1994," or upon approval by the department, the "Streamlined Water-Effect Ratio Procedure for Discharges of Copper (EPA-822-R-01-005), March 2001," which are hereby adopted by reference.

The copper Biotic Ligand Model (BLM) may be used as an alternative to the copper criteria in Table 1. The copper BLM is found in the document "Aquatic Life Ambient Freshwater Quality Criteria - Copper 2007 Revision (EPA-822-R-07-001), February 2007," which is hereby adopted by reference.

TABLE 2. Criteria for Dissolved Oxygen

(all values expressed in milligrams per liter)

	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)
Minimum value for at least 16 hours of every 24-hour period	7.0	7.0	5.0	5.0	5.0	5.0*
Minimum value at any time during every 24-hour period	5.0	5.0	5.0	4.0	4.0	5.0*

**applies only to the upper layer of stratification in lakes*

TABLE 3a. Acute Criterion for Ammonia in Iowa Streams

Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC)		
pH	Class B(WW-1), B(WW-2), B(WW-3) & B(LW)	Class B(CW1) & B(CW2)
6.5	48.8	32.6
6.6	46.8	31.3
6.7	44.6	29.8
6.8	42.0	28.0
6.9	39.1	26.1
7.0	36.1	24.1
7.1	32.8	21.9
7.2	29.5	19.7
7.3	26.2	17.5
7.4	23.0	15.3
7.5	19.9	13.3
7.6	17.0	11.4
7.7	14.4	9.64
7.8	12.1	8.11

Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC)		
pH	Class B(WW-1), B(WW-2), B(WW-3) & B(LW)	Class B(CW1) & B(CW2)
7.9	10.1	6.77
8.0	8.40	5.62
8.1	6.95	4.64
8.2	5.72	3.83
8.3	4.71	3.15
8.4	3.88	2.59
8.5	3.20	2.14
8.6	2.65	1.77
8.7	2.20	1.47
8.8	1.84	1.23
8.9	1.56	1.04
9.0	1.32	0.885

TABLE 3b. Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Present

Chronic Criterion - Early Life Stages Present, mg/l as N (or Criterion Continuous Concentration, CCC)										
pH	Temperature, °C									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.8	2.8	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

TABLE 3c. Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Absent

Chronic Criterion - Early Life Stages Absent, mg/l as N (or Criterion Continuous Concentration, CCC)										
pH	Temperature, °C									
	0-7	8	9	10	11	12	13	14	15*	16*
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.99
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

*At 15°C and above, the criterion for fish early life stage (ELS) absent is the same as the criterion for fish ELS present.

TABLE 4. Aquatic Life Criteria for Sulfate for Class B Waters

(all values expressed in milligrams per liter)

	Chloride		
Hardness mg/l as $CaCO_3$	$Cl^- < 5$ mg/l	$5 <= Cl^- < 25$	$25 <= C1^- <= 500$
H < 100 mg/l	500	500	500
100 < = H < = 500	500	[–57.478 + 5.79 (hardness) + 54.163 (chloride)] × 0.65	[1276.7 + 5.508 (hardness) –1.457 (chloride)] × 0.65
H > 500	500	2,000	2,000

61.3(4) *Class "C" waters.* Rescinded IAB 4/18/90, effective 5/23/90.

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

61.3(6) *Cold water use designation assessment protocol.* The department hereby incorporates by reference "Cold Water Use Designation Assessment Protocol," effective December 15, 2004. This document may be obtained on the department's Web site at http://www.iowadnr.com/water/standards/index.html.

61.3(7) *Warm water stream use assessment and attainability analysis protocol.* The department hereby incorporates by reference "Warm Water Stream Use Assessment and Attainability Analysis Protocol," effective March 22, 2006. This document may be obtained on the departments Web site at http://www.iowadnr.com/water/standards/index.html.

61.3(8) *Recreational use assessment and attainability analysis protocol.* The department hereby incorporates by reference "Recreational Use Assessment and Attainability Analysis Protocol," effective March 19, 2008. This document may be obtained on the department's Web site.

61.3(9) Reserved.

61.3(10) *Implementation procedure for biotic ligand model-based copper criteria.* The department hereby incorporates by reference "Implementation Procedure for Biotic Ligand Model-Based Copper Criteria," February 22, 2017. This document may be obtained on the department's Web site.

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

[**ARC 8039B**, IAB 8/12/09, effective 9/16/09; **ARC 8214B**, IAB 10/7/09, effective 11/11/09; **ARC 8226B**, IAB 10/7/09, effective 11/11/09; **ARC 8466B**, IAB 1/13/10, effective 2/17/10; **ARC 9223B**, IAB 11/17/10, effective 12/22/10; **ARC 1988C**, IAB 5/13/15, effective 6/17/15; **ARC 2911C**, IAB 1/18/17, effective 2/22/17]

567—61.4 to **61.9** Reserved.

VOLUNTEER MONITORING DATA REQUIREMENTS

567—61.10(455B) Purpose. The department uses water quality monitoring data for a number of purposes, including determining compliance with effluent limits for operation permits issued under 567—Chapter 64. The department also uses water quality monitoring data to determine the relative health of a water body by comparing monitoring data to the appropriate water quality standards established in 567—Chapter 61, a process known as water body assessments. Water body assessments are performed to prepare the biennial water quality report required under Section 305(b) of the Act and the list of impaired waters under Section 303(d) of the Act.

Iowa Code sections 455B.193 to 455B.195 require that credible data, as defined in Iowa Code section 455B.171, be used for the purpose of preparing Section 303(d) lists and other water quality program functions. Data provided by a volunteer are not considered credible data unless provided by a qualified volunteer. The purpose of this chapter is to establish minimum requirements for data produced by volunteers to meet the credible data and qualified volunteer requirements.

567—61.11(455B) Monitoring plan required. Volunteer water quality monitoring data submitted to the department must have been produced in accordance with a department-approved volunteer water quality monitoring plan before the data may be used for any of the purposes listed in Iowa Code section 455B.194. Approval of a plan will establish qualified volunteer status for the personnel identified in the plan for those monitoring activities covered under the plan.

61.11(1) *Submittal of the plan.* Prior to initiation of volunteer water quality monitoring activities intended to produce credible data, a water quality monitoring plan must be submitted to the department for review and approval. The plan must be submitted to the Volunteer Monitoring Coordinator, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, a minimum of 90 days before planned initiation of volunteer monitoring activities. A letter transmitting the plan must specifically request formal review and approval of the plan and identify a contact person. Volunteer monitors are encouraged to communicate with the department and to attend volunteer monitoring training sessions prior to formal submittal of a plan.

61.11(2) *Content of the plan.* A volunteer monitoring plan must contain, at a minimum, the following to be considered an acceptable volunteer monitoring plan:

a. A statement of the intent of the monitoring effort.

b. The name(s) of the person or persons that will be involved in data collection or analysis, the specific responsibilities of each person or group of people, and the general qualifications of the volunteers to carry out those responsibilities. For groups, such as educational institutions, it will be acceptable to identify the persons involved by general description (e.g., tenth grade biology class) with the exception of persons in responsible charge.

c. The name(s) of the person or persons that will oversee the monitoring plan, ensure that quality assurance and control objectives are being met, and certify the data. The person or persons in responsible charge must have training commensurate with the level of expertise to ensure that credible data is being generated.

d. The duration of the volunteer monitoring effort. In general, the department will not approve plans of greater than three years' duration unless a longer duration is justified.

e. Location and frequency of sample collection.

f. Methods of data collection and analysis.

g. Record keeping and data reporting procedures.

61.11(3) *Department review of the plan.* The department will review monitoring plans and normally approve or disapprove the plan within 90 days of receipt. The department will work with the contact person identified in the plan to make any necessary changes prior to taking formal action. The department will use guidelines contained in the publications EPA Requirements for Quality Assurance Project Plans (EPA QA/R-5, 2001) and Volunteer Monitor's Guide to Quality Assurance Project Plans (1966, EPA 841-B-96-003) or equivalent updates to determine if the plans provide adequate quality assurance and quality control measures. Approval or disapproval of the plan will be in the form of a letter and approval may include conditions or limitations.

61.11(4) *Changes in monitoring plans.* The department must approve any changes to an approved monitoring plan. Data collected under a modified plan will not be considered credible data until such time as the department has approved the modifications. Modifications to an approved plan should be submitted at the earliest possible time to avoid interruptions in data collection and to ensure continuity of data.

61.11(5) *Appeal of disapproval.* If a monitoring plan submitted for approval is disapproved, the decision may be appealed by filing an appeal with the director within 30 days of disapproval. The form of the notice of appeal and appeal procedures are governed by 567—Chapter 7.

567—61.12(455B) Use of volunteer monitoring data. Data produced under an approved water quality monitoring plan will be considered credible data for the purposes listed in Iowa Code section 455B.194 if the following conditions are met.

61.12(1) *Data submittal.* A qualified volunteer monitor or qualified volunteer monitoring group must specifically request that data produced under an approved volunteer monitoring plan be considered credible data. A letter identifying the specific data must be submitted along with a certification from the volunteer or the person in responsible charge for volunteer groups that the data, to the best of the volunteer's or responsible person's knowledge, was produced in accordance with the approved volunteer monitoring plan. The department shall provide a standard format on the IOWATER Web site for submittal of qualified volunteer data and related information. The department encourages volunteers to enter monitoring data on the IOWATER volunteer monitoring database maintained by the department, but doing so does not constitute submittal to or acceptance of the data by the department for uses requiring credible data. Volunteer data shall be labeled as such in any departmental reports, Web sites, or databases.

61.12(2) *Department review of submitted data.* The department must review and approve the submitted data. The person submitting the data will be informed of the department's decision either to accept or reject the data. The department will attempt to resolve any apparent inconsistencies or questionable values in the submitted data prior to making a final decision.

567—61.13(455B) Department audits of volunteer monitoring activities. The department shall conduct field audits of a statistically valid and representative sample of volunteer data collection

and analysis procedures to ensure compliance with an approved plan and may conduct confirmatory monitoring tests. Volunteers shall be informed of any audit results and be provided with an opportunity to address any concerns to the extent possible. The department reserves the right to rescind approval of an approved plan if it finds substantial problems that cannot be addressed in a timely manner to ensure the quality of the data being produced.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

[Filed March 15, 1966; amended March 20, 1967, October 14, 1969, June 8, 1971, June 26, 1972, July 12, 1972, February 13, 1974]
[Filed 6/28/76, Notice 5/3/76—published 7/12/76, effective 8/16/76]
[Filed 7/1/77, Notice 2/23/77—published 7/27/77, effective 8/31/77]
[Filed without Notice 7/28/77—published 8/24/77, effective 9/28/77]
[Filed 7/27/78, Notice 5/3/78—published 8/23/78, effective 9/27/78]
[Filed 2/2/79, Notice 11/1/78—published 2/21/79, effective 3/28/79]
[Filed 10/26/79, Notice 6/27/79—published 11/14/79, effective 12/19/79]
[Filed 8/29/80, Notice 6/25/80—published 9/17/80, effective 10/22/80]
[3/25/83, Notice 1/5/83—published 4/13/83, effective 5/18/83]
[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]
[Filed 12/2/83, Notice 6/22/83—published 12/21/83, effective 1/25/84]
[Filed 10/19/84, Notice 7/18/84—published 11/7/84, effective 12/12/84]
[Filed 7/12/85, Notice 3/13/85—published 7/31/85, effective 9/4/85]
[Filed 8/7/86, Notice 4/9/86—published 8/27/86, effective 10/1/86]
[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]
[Filed 3/30/90, Notice 8/9/89—published 4/18/90, effective 5/23/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed 10/26/90, Notice 7/11/90—published 11/14/90, effective 12/19/90]
[Filed 11/26/90, Notice 9/19/90—published 12/12/90, effective 1/16/91]
[Filed 7/19/91, Notice 2/20/91—published 8/7/91, effective 9/11/91]
[Filed 1/31/92, Notice 7/10/91—published 2/19/92, effective 3/25/92]
[Filed 2/28/92, Notice 11/13/91—published 3/18/92, effective 4/22/92]
[Filed 5/22/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed 7/31/92, Notice 5/13/92—published 8/19/92, effective 9/23/92]
[Filed 10/23/92, Notice 9/2/92—published 11/11/92, effective 12/16/92]
[Filed 5/21/93, Notice 2/17/93—published 6/9/93, effective 7/14/93]
[Filed 7/2/93, Notice 2/17/93—published 7/21/93, effective 8/25/93]
[Filed 10/22/93, Notice 8/18/93—published 11/10/93, effective 12/15/93]
[Filed 7/29/94, Notice 5/11/94—published 8/17/94, effective 9/21/94]
[Filed 5/19/95, Notice 2/15/95—published 6/7/95, effective 8/9/95]
[Filed 8/25/95, Notice 6/7/95—published 9/13/95, effective 10/18/95]
[Filed 2/23/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]
[Filed 5/31/96, Notice 3/13/96—published 6/19/96, effective 7/24/96]
[Filed 1/24/97, Notice 10/9/96—published 2/12/97, effective 3/19/97]
[Filed 5/26/00, Notice 11/17/99—published 6/14/00, effective 7/19/00]
[Filed 9/29/00, Notice 5/17/00—published 10/18/00, effective 11/24/00]
[Filed 8/31/01, Notice 2/7/01—published 9/19/01, effective 10/24/01]
[Filed 5/24/02, Notice 1/9/02—published 6/12/02, effective 7/17/02]
[Filed 6/18/02, Notice 2/6/02—published 7/10/02, effective 8/14/02]
[Filed 5/22/03, Notice 1/8/03—published 6/11/03, effective 7/16/03]
[Filed 3/18/04, Notice 9/17/03—published 4/14/04, effective 5/19/04]
[Filed 4/23/04, Notice 9/17/03—published 5/12/04, effective 6/16/04]
[Filed 10/22/04, Notice 4/14/04—published 11/10/04, effective 12/15/04]
[Filed 1/27/06, Notice 9/14/05—published 2/15/06, effective 3/22/06]◊
[Filed 4/6/07, Notice 12/6/06—published 4/25/07, effective 5/30/07]

[Filed 10/4/07, Notice 5/23/07—published 10/24/07, effective 11/28/07]
[Filed 1/23/08, Notice 9/26/07—published 2/13/08, effective 3/19/08]
[Filed 4/18/08, Notice 10/24/07—published 5/7/08, effective 6/11/08]
[Filed 9/15/08, Notice 7/30/08—published 10/8/08, effective 11/12/08]
[Filed ARC 8039B (Notice ARC 7624B, IAB 3/11/09), IAB 8/12/09, effective 9/16/09]
[Filed ARC 8226B (Notice ARC 7624B, IAB 3/11/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 8214B (Notice ARC 7853B, IAB 6/17/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 8466B (Notice ARC 7368B, IAB 11/19/08; Amended Notice ARC 7571B, IAB 2/11/09; Amended Notice ARC 8038B, IAB 8/12/09), IAB 1/13/10, effective 2/17/10]
[Filed ARC 9223B (Amended Notice ARC 8978B, IAB 7/28/10; Notice ARC 8599B, IAB 3/10/10), IAB 11/17/10, effective 12/22/10]
[Filed ARC 9330B (Notice ARC 9153B, IAB 10/20/10), IAB 1/12/11, effective 2/16/11][1]
[Editorial change: IAC Supplement 2/23/11]
[Filed ARC 0121C (Notice ARC 9998B, IAB 2/8/12), IAB 5/16/12, effective 6/20/12]
[Filed ARC 1495C (Notice ARC 1370C, IAB 3/19/14), IAB 6/11/14, effective 7/16/14]
[Filed ARC 1988C (Notice ARC 1877C, IAB 2/18/15), IAB 5/13/15, effective 6/17/15]
[Filed Emergency After Notice ARC 2695C (Notice ARC 2579C, IAB 6/8/16), IAB 8/31/16, effective 8/12/16]
[Filed ARC 2911C (Notice ARC 2757C, IAB 10/12/16), IAB 1/18/17, effective 2/22/17]

◊ Two or more ARCs

1 February 16, 2011, effective date of 61.2(2)*"g"*(8) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 11, 2011.

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

[Prior to 11/5/86, Public Employment Relations Board [660]]

CHAPTER 13
MEDIATORS

CHAPTER 14
ARBITRATORS

CHAPTER 15
Reserved

CHAPTER 16
ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

CHAPTER 8
INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

621—8.1(20) Requirements. Before the agency certifies an employee organization as the exclusive representative of a bargaining unit, the employee organization shall electronically file a registration report, constitution and bylaws, and an annual report. Once certified, the certified employee organization shall thereafter file an annual report as required by rule 621—8.4(20) and a registration report and constitution and bylaws whenever its constitution or bylaws are amended as required by rules 621—8.2(20) and 621—8.3(20).
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.2(20) Registration report.

8.2(1) *Time of filing.* An employee organization shall file a complete registration report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.2(2) *Form and content.* The registration report shall be on the form prescribed by the agency.

8.2(3) *Method of filing.* The registration report shall be electronically filed pursuant to 621—Chapter 16.
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.3(20) Constitution and bylaws.

8.3(1) *Time of filing.* An employee organization shall file its constitution and bylaws:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.3(2) *Form and content.*

a. The constitution or bylaws of every employee organization shall provide that:

(1) Accurate accounts of all income and expenses shall be kept, and an annual financial report and an audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

(2) Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

(3) Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded in an amount and form determined by the agency.

(4) Periodic elections by secret ballot shall be conducted subject to recognized safeguards concerning the equal rights of all members to nominate, seek office, and vote in such elections; that individual members have the right to participate in the affairs of the organization; and that there are fair and equitable procedures in disciplinary actions.

b. The employee organization's national or international constitution and bylaws shall be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

8.3(3) *Method of filing.* The constitution and bylaws shall be electronically filed pursuant to 621—Chapter 16.
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.4(20) Annual report.

8.4(1) *Time of filing.* An employee organization shall file a complete annual report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit in which case the report may be filed concurrently with an election petition; and

b. Once the employee organization is certified, within 90 days following the certified employee organization's fiscal year end; and

c. When the certified employee organization files a petition to amend its certification.

8.4(2) *Form and content.* The annual report shall be on the form prescribed by the board and shall contain:

a. The names, addresses, e-mail addresses, and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name, address, e-mail address, and telephone number of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit.

(1) The financial report shall contain, at a minimum, the following information: the cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year with petitions for amendment of certification, the financial report shall reflect the last completed quarter or quarters of the current fiscal year.

(2) The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.

g. The name(s) of the person(s) required to be bonded pursuant to rule 621—8.5(20), the amount of the bond, and the name of the corporate surety company that issued the bond(s).

8.4(3) *Method of filing.* The annual report shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.5(20) Bond required. Every person required by Iowa Code section 20.25(3)*"c"* to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

8.5(1) *Bond requirements.* The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or that person's predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than $2,000 nor more than $500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than $2,000. Such bonds shall have a corporate surety company as surety thereon.

8.5(2) *Prohibitions.* Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.6(20) Trusteeships.

8.6(1) *Application and establishment.* Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the agency. The organization shall attach a copy of its constitution and bylaws to its application.

a. The board will review the organization's constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

b. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.6(2) *Reports.*

a. Every organization which assumes trusteeship over any subordinate employee organization shall file with the agency within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization, containing the following information:

(1) The name and address of the subordinate employee organization;

(2) The date of the establishment of the trusteeship;

(3) A detailed statement of the reason for the establishment or the continuation of the trusteeship; and

(4) The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

b. The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.6(3) *Continuing duty to report.* During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the designated trustees for the subordinate employee organization.

8.6(4) *Method of filing.* The application and any required reports shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—8.7(20) Failure to comply with employee organization requirements. The agency shall not certify an employee organization or may revoke the existing certification(s) of an employee organization for failure to file a registration report, its constitution and bylaws, or an annual report or otherwise fail to comply with Iowa Code section 20.25.

8.7(1) *Upon completion of a valid election.* If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules or Iowa Code section 20.25 within 90 days following the completion of a valid election, the agency will not certify the employee organization and will serve notice of noncertification. The agency may grant extensions of time for good cause.

8.7(2) *Failure to file reports once certified.* If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules and Iowa Code section 20.25, the agency may revoke the certification of the employee organization. When the organization fails to comply following notice of its noncompliance, the agency will order the employee organization to show cause why its certification should not be revoked and set the matter for hearing.

8.7(3) *Complaints by affected parties.* A complaint that any employee organization has engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be submitted in writing to the board by any affected person. Upon receipt of a complaint, the agency shall serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]
[Filed 10/29/76, Notice 9/22/76—published 11/17/76, effective 12/22/76]
[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]
[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]
[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]
[Filed ARC 2916C (Notice ARC 2817C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]

CHAPTER 9
ADMINISTRATIVE REMEDIES

621—9.1(17A,20) Final decisions.

9.1(1) *By board majority.* When a majority of the board presides at the reception of the evidence in a contested case, the decision of the board is a final decision of the agency.

9.1(2) *By presiding officer.* When a majority of the board does not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

a. There is an appeal to the board or a petition for its review filed within 20 days of the filing of the proposed decision, or

b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.2(17A,20) Appeals or petitions for the board's review.

9.2(1) *Notice of appeal or petition for review.* An appeal to the board or a petition for review of a proposed decision in a contested case proceeding shall be commenced by the filing of a written notice of appeal or petition for review with the agency within 20 days of the filing of the proposed decision.

9.2(2) *Cross-appeals or cross-petitions for review.* A cross-appeal or cross-petition for review may be taken in the same manner as an appeal or a petition for review and shall be filed within 20 days of the filing of the proposed decision or within 5 days after the initial appeal or petition for review is filed, whichever is later.

9.2(3) *Method of filing.* All appeals and petitions for review shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10; **ARC 1583C**, IAB 8/20/14, effective 9/24/14; **ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.3(17A,20) Board's review on its own motion. The board may determine to review the proposed decision within 20 days of the filing of the proposed decision by filing an order for review.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.4(17A,20) Petition for amicus curiae status. Any person, employee organization or public employer who has a significant interest in an outcome of an appeal or review pursuant to either rule 621—9.2(17A,20) or 621—9.3(17A,20) may petition the board for amicus curiae status. Where the petition is granted by the board, the amicus curiae may submit briefs and arguments and participate in the same manner as an original party to the proceeding.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.5(17A,20) Board proceedings on appeal or review. On appeal from or review of a proposed decision, the board has all the power that it would have in initially making the final decision except as it may limit the issues after giving notice to the parties.

9.5(1) *Procedure.* The parties shall be given an opportunity to file briefs and, with the consent of the board, present oral arguments to the board members who are to render the final decision. If the board consents to the presentation of oral arguments, the board shall file an order setting a time and place.

9.5(2) *Standard of review.* The board may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the board finds to be in error.

9.5(3) *Final agency action.* The decision rendered by the board on appeal or review shall be a final decision of the agency.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.6(17A,20) Rehearing.

9.6(1) *Application.* Any party may file an application for rehearing, stating the specific grounds for rehearing and the relief sought, within 20 days after the date of the issuance of any final decision by the agency in a contested case. An application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

9.6(2) *Method of filing.* The application shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—9.7(17A,20) Stays of agency action.

9.7(1) *Application.* A party may file an application for a stay of agency action. The board may, in its discretion and on such terms as it deems proper, grant or deny the application.

9.7(2) *Method of filing.* The application shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

These rules are intended to implement Iowa Code chapters 17A and 20.

[Filed 3/4/75]

[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]

[Filed 9/11/79, Notice 7/11/79—published 10/3/79, effective 11/12/79]

[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]

[Filed emergency 7/23/85—published 8/14/85, effective 7/23/85]

[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]

[Filed 2/1/89, Notice 12/28/88—published 2/22/89, effective 3/30/89]

[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]

[Filed Without Notice ARC 8953B, IAB 7/28/10, effective 9/1/10]

[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]

[Filed ARC 2916C (Notice ARC 2817C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]

CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS AND DISCIPLINARY ACTIONS

621—11.1(8A,20) Notice of appeal rights. When the director of the Iowa department of administrative services (hereinafter referred to as the director) issues a response to an employee pursuant to Iowa Code section 8A.415 and the response does not grant the relief sought by the employee, the response shall include notice to the affected employee that the employee may appeal the response by filing an appeal with the public employment relations board within 30 days of the date of the director's response.
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.2(8A,20) Filing of appeal.

11.2(1) *Grievances.* An employee, except an employee covered by a collective bargaining agreement that provides otherwise, who has filed a grievance and is not satisfied with the director's response, may file an appeal with the agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(2) *Disciplinary appeals.* A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise receives a reduction in pay, and who appeals the action to the director and is not satisfied with the director's response, may file an appeal with the agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(3) *Method of filing.* Appeals shall be electronically filed pursuant to 621—Chapter 16.
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.3(8A,20) Service of appeal. The agency shall serve a copy of the appeal upon the director by ordinary mail in the manner specified in rules 621—2.15(20) and 621—16.10(20).
[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.4(8A,20) Content of appeal.

11.4(1) The appeal shall contain the following:

a. Name, address, telephone number, and e-mail address of the appealing employee;

b. Name of agency/department by which the appealing employee is/was employed;

c. A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;

d. A statement of the requested remedy;

e. The name, address, telephone number, and e-mail address of the appealing employee's representative, if any;

f. Signature of the appealing employee or employee's representative; and

g. In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

11.4(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all the requirements in subrule 11.4(1).
[**ARC 1583C**, IAB 8/20/14, effective 9/24/14; **ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.5(8A,20) Content of director's response to the appeal.

11.5(1) The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

11.5(2) The motion or answer shall contain the following:

a. The names of the appealing employee and the employing agency/department;

b. The name, address, telephone number, and e-mail address of the employing agency's/department's representative;

c. A copy of the original grievance and first-, second-, and third-step responses issued; and

d. Signature of the employing agency's/department's representative.

11.5(3) The director's motion or answer shall be electronically filed pursuant to 621—Chapter 16.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.6(8A,20) Right to a hearing. An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing, which is open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing, which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with 621—Chapter 2.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.7(8A,20) Final decisions.

11.7(1) When a majority of the board presides at the reception of the evidence in a grievance or disciplinary action appeal, the decision of the board is the final decision of the agency.

11.7(2) When a majority of the board does not preside at the reception of the evidence in a grievance or disciplinary appeal, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

a. There is a petition for the board's review filed within 20 days of the filing of the proposed decision, or

b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.8(8A,20) Review by board. Proceedings on the board's review of the proposed decision shall be in accordance with 621—Chapter 9.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.9(8A,20) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the agency.

[**ARC 2916C**, IAB 1/18/17, effective 2/22/17]

621—11.10(19A,20) Applicability. Rescinded **ARC 2916C**, IAB 1/18/17, effective 2/22/17.

These rules are intended to implement Iowa Code chapters 8A and 20.

[Filed emergency 8/4/86—published 8/27/86, effective 8/4/86]
[Filed 10/15/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]
[Filed emergency 9/30/88—published 10/19/88, effective 9/30/88]
[Filed 2/1/89, Notice 12/28/88—published 2/22/89, effective 3/30/89]
[Filed 1/22/97, Notice 12/18/96—published 2/12/97, effective 3/18/97]
[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]
[Filed ARC 2916C (Notice ARC 2817C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, chapter 1245.

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CHAPTER 4
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CHAPTER 5
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[Prior to 12/17/86, Revenue Department[730]]

701—8.1(17A,421) Definitions. For the purposes of this chapter, the following definitions apply, unless the context otherwise requires:

"Communication" means any method of transfer of data, information, or money by any conduit or mechanism.

"Department" means the Iowa department of revenue.

"Department form" means a form that is distributed by the department.

"Director" means the director of the department.

"Form" means any overall physical arrangement and general layout of communications, using any method of communication, related to tax or other administration and prescribed by the director or otherwise required by law.

"IRS" means the federal Internal Revenue Service.

"Person" means any individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Return" means any form required for tax administration from any person to the department.

"Substitute form" means a form that is intended to replace a department form.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b"* and 421.14.

[**ARC 2915C**, IAB 1/18/17, effective 2/22/17]

701—8.2(17A,421) Department forms.

8.2(1) *Generally.* The department and the director have developed and provide or prescribe department forms designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which department forms have been created, shall be carried out using those forms or substitute forms. Each direction of every instruction contained within or accompanying department forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

8.2(2) *Obtaining department forms.* Department forms and instructions may be obtained from the Iowa Department of Revenue, Policy and Communications Division, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306; by telephoning (800)367-3388 or (515)281-3114; or on the department's Web site at https://tax.iowa.gov/.

8.2(3) *Filing department forms.* A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.2(4) *Removable media and electronic reporting.* Submitting a department form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b"* and 421.14.

[**ARC 9875B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 2915C**, IAB 1/18/17, effective 2/22/17]

701—8.3(17A,421) Substitute forms.

8.3(1) *Generally.* A substitute form may be in electronic format, on paper, or created using other media for communication. Approval shall be obtained prior to the use of any substitute form, unless otherwise noted in this rule. The director may change any department form without providing notice to users of any substitute form. The director may require use of department forms in communications with the department concerning tax administration or other matters.

8.3(2) *Types of substitute forms.* Many types of forms may, upon approval when necessary, be substituted for department forms. Descriptions of a partial list follow.

a. Reproduced forms. A reproduced form is a legible photocopy or an exact copy of a department form. A reproduced form may be used without prior approval of the department if the reproduced form meets the following conditions:

(1) The reproduced form does not vary from the department form in size or any other format specification.

(2) No rule prohibits the reproduction of the department form.

(3) The reproduced form does not vary from criteria stated elsewhere in this chapter.

b. Replacement forms. A replacement form is produced by imagery or otherwise replicated using the department form as a model, but it is not an exact copy of a department form. A form that is created in its entirety, including layout, by computer is a replacement form. A replacement form may include modifications, such as line enlargement or copy deletion. A replacement form must receive department approval prior to use.

c. Federal forms. A federal form is a form that is distributed by the IRS. A federal form, or its alternate, may be used without department approval if the form is approved for federal use and Iowa tax instructions or other administrative instructions authorize or require the use of the federal form in lieu of a department form.

8.3(3) *Registration and approval of substitute forms.*

a. Registration. A developer of a substitute form must register with the department by submitting the Registration for Substitute Forms and Barcode Approval. Each registration is valid for one tax year only. Failure to register with the department may, at the discretion of the director, result in the rejection of the developer's forms and all information contained therein.

b. Approval. Once registered, the developer of a substitute form must request department approval of the form, unless approval is not necessary. The developer may request department approval by submitting a PDF of the form to IDRSubForms@iowa.gov. Those forms listed on the Iowa Substitute Forms Checklist, which is provided with the Registration for Substitute Forms and Barcode Approval, should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration. Attempting to file an unapproved substitute form with the department may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.3(4) *Forms that may not be reproduced.* Rescinded ARC 2915C, IAB 1/18/17, effective 2/22/17.

8.3(5) *Quality of substitute forms.*

a. General information. All substitute forms must, to the extent practicable, reflect the same size, color, content, design, and legibility as department forms posted on the department's Web site at https://tax.iowa.gov/.

b. Printed substitute forms. When printed on paper, a substitute form must use only black ink or black imaging material, unless the corresponding department form indicates otherwise. A printed substitute form generally must be printed on 20-pound white paper stock with a brightness rating of at least 92 on the TAPPI scale.

c. Distinctive markings and symbols. A department form may contain distinctive symbols. These symbols must be reproduced on any substitute forms.

8.3(6) *Filing substitute forms.* A substitute form may be filed with the department as directed on the corresponding department form or instructions or by any other method approved by the department. Attempting to file a substitute form with the department using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.3(7) *Removable media and electronic reporting.* Submitting a substitute form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a substitute form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b"* and 421.14.

[**ARC 9875B**, IAB 11/30/11, effective 1/4/12; **ARC 0398C**, IAB 10/17/12, effective 11/21/12; **ARC 2915C**, IAB 1/18/17, effective 2/22/17]

701—8.4(17A) Description of forms.

8.4(1) *Tax forms.* Taxes administered by the department that require forms are as follows:

a. Corporate income return systems use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

b. Corporate income tax field and office audit systems, related field collections systems, and the corporate tax error resolution system use forms designed by the department. Approved substitute forms may be used.

c. Franchise tax returns use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

d. Franchise audit and collection systems use forms designed by the department. Approved substitute forms may be used.

e. Corporate and franchise estimated tax systems use forms designed by the department. Approved substitute forms may be used.

f. Individual and fiduciary income returns use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

g. Individual and fiduciary income tax field and office audit systems and related field collections systems use forms designed by the department. Approved substitutes may be used.

h. New jobs tax credit systems use forms designed by the department. Approved substitute forms may be used.

i. Individual income tax withholding payment voucher systems use forms designed by the department. Approved substitute forms may be used.

j. IA-W4, declaration of estimated tax, and withholding penalty waiver systems use forms designed by the department. Approved substitutes may be used.

k. Sales and use tax payment vouchers and annual returns use forms designed by the department. Approved substitute forms may be used in limited situations.

l. Local option sales and services tax and hotel/motel tax systems use forms designed by the department. Approved substitute forms may be used in limited situations.

m. Field and office audit and collections systems for sales and use tax; sales tax refund examination systems; industrial machinery, equipment, and computer refund systems; and sales and use tax penalty waiver systems use forms designed by the department. Approved substitute forms may be used.

n. Motor fuel tax systems use forms designed by the department. Approved substitute forms may be used.

o. Special fuel tax systems use forms designed by the department. Approved substitute forms may be used.

p. Motor fuel tax and special fuel tax error resolution systems and related field and office audit and collection systems use forms designed by the department. Approved substitute forms may be used.

q. Inheritance and qualified use inheritance tax systems use forms designed by the department. Approved substitute forms may be used.

r. Inheritance and qualified use inheritance tax field and office audit systems and related field collections systems use forms designed by the department. Approved substitute forms may be used.

s. Cigarette and tobacco tax systems with related office and field audit and field collection systems use forms designed by the department. Approved substitute forms may be used.

t. Property assessor and deputy assessor examination records systems use forms designed by the department. Approved substitute forms may be used.

u. Centrally assessed property tax systems use forms designed by the department. Approved substitute forms may be used.

v. Mobile, manufactured, and modular home reduced tax rate systems; Iowa elderly and disabled property tax credit and rent reimbursement systems; and special assessment credit systems use forms designed by the department. Approved substitute forms may be used.

w. Environmental protection charge systems use forms designed by the department. Approved substitute forms may be used.

x. Excise tax on unlawful dealing in certain substances systems use forms designed by the department. Approved substitute forms may be used.

y. Taxpayer contact systems use forms designed by the department. Approved substitute forms may be used.

z. Federal and state exchange of information systems use forms designed by the department as well as others. Approved substitute forms may be used.

aa. Accounts receivable notices systems use forms designed by the department. Developers may not provide a substitute accounts receivable notice.

bb. The department provides a taxpayer bill of rights, which sets forth the rights of a taxpayer and obligations of the department during an audit, procedures by which a taxpayer may appeal an adverse decision of the department, and procedures which the department uses to enforce the tax laws. Developers may not provide a substitute taxpayer bill of rights.

8.4(2) Reserved.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b,"* 421.7 and 422.21.

[**ARC 9875B**, IAB 11/30/11, effective 1/4/12; **ARC 1545C**, IAB 7/23/14, effective 8/27/14; **ARC 2915C**, IAB 1/18/17, effective 2/22/17]

701—8.5(422) Electronic filing of Iowa income tax returns. There is no statutory requirement that taxpayers file their Iowa income tax returns electronically. Taxpayers also have the option to file by paper. However, electronic filing allows individuals and businesses that meet department criteria to file their Iowa income tax returns electronically. When a taxpayer files an electronic return, all information related to the return should be electronically transmitted. No information is to be submitted on paper unless specifically requested by the department. A taxpayer's electronic Iowa return shall include the same information as if the taxpayer had filed a paper return.

8.5(1) *Definitions.* For the purpose of this rule, the following definitions apply, unless the context otherwise requires:

"Acknowledgment" means a report generated by the department and sent electronically to a transmitter via the IRS indicating the department's acceptance or rejection of an electronic submission.

"Declaration for e-File Return form" means a taxpayer declaration form that authenticates the electronic tax return, authorizes its transmission, and consents to the financial transaction order as designated using the financial institution information provided.

"Direct debit" means an order for electronic withdrawal of funds from a taxpayer's financial institution account for payment to the department.

"Direct deposit" means an order for electronic transfer of a refund into a taxpayer's financial institution account.

"E-file provider" means a firm that is assigned an Electronic Filing Identification Number (EFIN) by the IRS to assume any one or more of the following IRS e-file provider roles: electronic return originator, intermediate service provider, transmitter, software developer, or reporting agent.

"Electronic filing" means a paperless filing of the Iowa income tax return, order for financial transaction, or both by way of the IRS e-file program, also known as federal/state electronic filing (MeF).

"Electronic return originator (ERO)" means an authorized IRS e-file provider that originates the electronic submission by any one of the following methods: electronically sending an electronic tax

return to a Transmitter that will transmit the electronic tax return to the IRS, directly transmitting the electronic tax return to the IRS, or providing the electronic tax return to an Intermediate Service Provider for processing prior to transmission to the IRS.

"Electronic signature" includes data in electronic form, which is logically associated with other data in electronic form and executed or adopted by a person with the intent to sign a document. This type of signature has the same legal standing as a handwritten signature if the requirements in either paragraph 8.5(2)*"b"* or *"c"* are met. Electronic signatures appear in many forms and may be created by many different technologies. No specific technology is required.

"Intermediate service provider" means the firm that assists with processing submission information between the ERO (or the taxpayer in the case of online filing) and a Transmitter.

"Online filing" means the process for taxpayers to self-prepare returns by entering return data directly into commercially available software, software downloaded from an Internet site and prepared off-line, or through an online Internet site.

"Origination of an electronic return" means the action by an ERO of electronically sending the return directly to an Intermediate Service Provider, a Transmitter, or the IRS.

"Reporting agent" means a firm that originates the electronic submission of certain returns for its clients or transmits the returns to the IRS in accordance with the IRS electronic filing procedures, or both.

"Software developer" means an approved IRS e-file provider that develops software according to IRS and Iowa specifications for the purposes of formatting electronic returns, transmitting electronic returns directly to the IRS, or both. A software developer may sell its software.

"Stockpiling" means collecting returns from taxpayers or from other e-file providers and waiting more than three calendar days after receiving the information necessary for transmission to transmit the returns to the department.

"Transmitter" means a firm that transmits electronic tax return information directly to the IRS and routes electronic acknowledgments from the IRS (and the states) to the firm originating the electronic return.

8.5(2) *Completion and documentation of the electronic return.*

a. All monetary amounts on the prepared return must be in whole dollars. The electronic submission must match the prepared return. The taxpayer(s) must declare the authenticity of the electronic return before it is transmitted. If the ERO makes changes to the electronic return after the Declaration for e-File Return form has been signed by the taxpayer(s), a new Declaration for e-File Return form must be completed and signed by the taxpayer(s) before the return is transmitted.

b. Electronic signature via remote transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is not physically present with the taxpayer, the ERO must record the name, social security number, address and date of birth of the taxpayer. The ERO must verify that the name, social security number, address, date of birth and other personal information of the taxpayer on record are consistent with the information provided through record checks with the applicable agency or institution or through credit bureaus or similar databases. This process is not necessary for handwritten signatures on a Declaration for e-File Return form sent to the ERO by hand delivery, U.S. mail, private delivery service, fax, e-mail or an Internet site.

c. Electronic signature via in-person transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is physically present with the taxpayer, the ERO must validate the taxpayer's identity unless there is a multiyear business relationship. A multiyear business relationship is one in which the ERO has originated returns for the taxpayer for a prior tax year and has identified the taxpayer using a valid government picture identification and the method in paragraph 8.5(2)*"b."* For in-person transactions, identity verification through a record check is optional.

d. The ERO must provide the taxpayer with a copy of all information to be filed. The taxpayer and ERO must retain all tax documentation for three years. The Declaration for e-File Return form and accompanying schedules are to be furnished to the department only when specifically requested.

8.5(3) *Direct deposit and direct debit.*

a. Taxpayers designating direct deposit of the Iowa refund or direct debit of payment remitted to the department on electronically filed returns must provide proof of account ownership to the ERO. The department is not responsible for the misapplication of a direct deposit refund or direct debit payment caused by error, negligence, or wrongdoing on the part of the taxpayer, e-file provider, financial institution, or any agent of the above.

b. Once the return has been transmitted, the financial order may not be altered. The department may, when processing procedures allow, grant a taxpayer's timely request to revoke the financial order. The taxpayer is responsible for revoking the financial order if the specified payment is not exactly as intended. A direct deposit or direct debit order will be disregarded by the department if the electronic submission is rejected for any reason as indicated in the acknowledgment.

c. The department may, when processing procedures require, convert a direct deposit order to a paper warrant. If a refund is deposited into an incorrect bank account, the department will issue a paper refund warrant once the funds are returned by the financial institution.

d. Payment withdrawal date.

(1) Funds will be withdrawn from the account specified in the direct debit order no sooner than the date specified by the taxpayer.

(2) Payment must be timely made to prevent the assessment of all applicable penalty and interest. A direct debit payment within an electronic submission is considered timely made when:

1. The department accepts the electronic submission;
2. The electronic postmark date is prior to the tax due date;
3. The payment withdrawal date is prior to the tax due date; and
4. The direct debit payment is honored by the specified financial institution.

(3) When the tax due date has not yet elapsed, the withdrawal date should occur on or before the tax due date. Scheduling a withdrawal date after the tax due date will result in the assessment of all applicable penalty and interest unless the taxpayer otherwise makes payment before the tax due date.

(4) When the tax due date has already elapsed, the withdrawal date should specify immediate payment to prevent the accrual of additional interest.

(5) Withdrawal cannot occur prior to the electronic postmark date. When the taxpayer attempts to schedule a withdrawal date that is prior to the electronic postmark date, the electronic postmark date is the withdrawal date.

(6) If a taxpayer wants to change the withdrawal date specified in a financial order, the taxpayer must revoke the financial order and submit a new financial order. If the department determines that the taxpayer may have erroneously scheduled a withdrawal date, the department may notify the taxpayer of the possible error, but the department is not required to do so.

8.5(4) *Software approval.* Software developers that want to develop electronic submission formatting software for e-filing Iowa returns shall register their respective software products annually with the department. The department publishes specifications, test packages, and testing procedures. Software must pass transmission tests before the department will approve it for electronic filing of Iowa income tax returns. The department will define the test period annually.

8.5(5) *ERO acceptance to participate.* Once accepted by the IRS as an ERO for a specific tax type, the ERO is automatically accepted to e-file Iowa returns of that tax type, provided that the department offers the tax type for e-file.

8.5(6) *Suspension of an e-file provider from participation in the Iowa electronic filing program.*

a. The department may immediately suspend, without notice, an e-file provider from the Iowa electronic filing program. In most cases, a suspension is effective as of the date of the letter informing the e-file provider of the suspension. Before suspending an e-file provider, the department may issue a warning letter describing specific corrective action required to correct deviations set forth in paragraph 8.5(6)*"b."* An e-file provider will be automatically prohibited from participating in the Iowa electronic filing program if denied participation in, or suspended from, the federal electronic filing program.

b. An e-file provider that is eligible to participate in the federal electronic filing program may be suspended from the Iowa electronic filing program if any of the following conditions occur. The list is for illustrative purposes only and is not deemed to be all-inclusive.

(1) Deterioration in the format of electronic returns transmitted.

(2) Unacceptable cumulative error or rejection rate or failure to correct errors resulting from the transmission of electronic returns.

(3) Untimely received, illegible, incomplete, missing, or unapproved substitute Declaration for e-File Return forms when requested by the department.

(4) Stockpiling returns at any time while participating in the Iowa electronic filing program.

(5) Failure on the part of the transmitter to retrieve acknowledgments within two working days of the department's providing them.

(6) Failure on the part of the transmitter to initiate the communication of acknowledgments to the ERO within two working days of the department's providing them.

(7) Significant complaints about the e-file provider.

(8) Failure on the part of the e-file provider to cooperate with the department's efforts to monitor e-file providers, investigate electronic filing abuse, and investigate the possible filing of fraudulent returns.

(9) Submitting the electronic return with information that is not identical to information on the Declaration for e-File Return form.

(10) Transmitting the electronic return with software not approved by the department for use in the Iowa electronic filing program for the given tax type and tax period.

(11) Failure on the part of the e-file provider to provide W-2s, 1099s, or out-of-state tax returns when requested by the department.

8.5(7) *Administrative procedure for denial of participation or suspension of participation.*

a. When a firm has requested participation in the Iowa electronic filing program but there is reason to deny the request, the department shall send a letter to the firm advising that entry into the program has been denied. When an e-file provider is a participant in the Iowa electronic filing program but is to be suspended from the program for any condition described in subrule 8.5(6), the department will send a letter to notify the e-file provider about its suspension from the program.

b. When the firm either disagrees with the denial of participation letter or the suspension from participation letter, the firm must file a written protest to the department within 60 days of the date of the denial letter or the suspension letter. The written protest must be filed pursuant to rule 701—7.8(17A). During the administrative review process, the denial of the firm's participation in or the suspension of the firm from the Iowa electronic filing program shall remain in effect.

This rule is intended to implement Iowa Code sections 422.21 and 422.68.

[**ARC 8603B**, IAB 3/10/10, effective 4/14/10; **ARC 0251C**, IAB 8/8/12, effective 9/12/12; **ARC 1303C**, IAB 2/5/14, effective 3/12/14; **ARC 2915C**, IAB 1/18/17, effective 2/22/17]

[Filed 7/1/75]
[Filed 3/2/79, Notice 1/24/79—published 3/21/79, effective 4/25/79]
[Filed emergency 3/2/79—published 3/21/79, effective 3/2/79]
[Filed 4/26/79, Notice 3/21/79—published 5/16/79, effective 6/20/79]
[Filed emergency 6/11/79—published 6/27/79, effective 6/27/79]
[Filed 6/22/79, Notice 5/16/79—published 7/11/79, effective 8/15/79]
[Filed 8/17/79, Notice 7/11/79—published 9/5/79, effective 10/11/79]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]
[Filed 2/1/80, Notice 12/26/79—published 2/20/80, effective 3/26/80]
[Filed emergency 6/9/80—published 6/25/80, effective 6/9/80]
[Filed 6/6/80, Notice 4/30/80—published 6/25/80, effective 7/30/80]
[Filed 9/12/80, Notice 8/6/80—published 10/1/80, effective 11/5/80]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 6/10/88, Notice 5/4/88—published 6/29/88, effective 8/3/88]
[Filed 12/22/89, Notice 11/15/89—published 1/10/90, effective 2/14/90]

[Filed 12/17/93, Notice 10/27/93—published 1/5/94, effective 2/9/94]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
[Filed 3/26/04, Notice 2/18/04—published 4/14/04, effective 5/19/04]
[Filed ARC 8603B (Notice ARC 8482B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 9875B (Notice ARC 9797B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]
[Filed ARC 0398C (Notice ARC 0292C, IAB 8/22/12), IAB 10/17/12, effective 11/21/12]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1545C (Notice ARC 1469C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
[Filed ARC 2915C (Notice ARC 2825C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]