State of Iowa

Iowa Administrative Code Supplement

Biweekly
March 4, 2026

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

The Iowa Administrative Code (IAC) Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement is a compilation of updated Iowa Administrative Code chapters that reflect rule changes which have been adopted by agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17, 17A.4, and 17A.5 and published in the Iowa Administrative Bulletin bearing the same publication date as the one for this Supplement. To determine the specific changes to the rules, refer to the Iowa Administrative Bulletin. To maintain a loose-leaf set of the IAC, insert the chapters according to the instructions included in the Supplement.

In addition to the rule changes adopted by agencies, the 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 or suspension imposed by the ARRC pursuant to section 17A.8(9) or 17A.8(10); rescission of a rule by the Governor pursuant to section 17A.4(8); nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa; other action relating to rules enacted by the General Assembly; updated chapters for the Uniform Rules on Agency Procedure; or an editorial change to a rule by the Administrative Code Editor pursuant to Iowa Code section 2B.13(2).

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

Iowa Finance Authority[265]

Replace Analysis
Replace Chapter 21
Replace Chapter 27
Replace Chapter 39
Replace Chapter 43

Higher Education Loan Authority[284]

Replace Analysis
Replace Chapters 1 to 5

Human Services Department[441]

Replace Analysis
Replace Chapters 105 and 106
Replace Chapters 114 and 115
Replace Chapters 123 to 129
Replace Chapters 306 to 309

Inspections and Appeals Department[481]

Replace Chapter 103
Replace Chapter 581

Natural Resource Commission[571]

Replace Chapter 106
Replace Chapter 108

Public Safety Department[661]

Replace Chapter 158

Workforce Development Department[871]

Replace Chapter 23
Replace Chapter 26

IOWA FINANCE AUTHORITY[265]

[Prior to 7/26/85, Housing Finance Authority[495]]
[Prior to 4/3/91, Iowa Finance Authority[524]]

CHAPTER 1
GENERAL

CHAPTER 2
Reserved

CHAPTER 3
MULTIFAMILY HOUSING

CHAPTER 4
Reserved

CHAPTER 5
DEBARMENT FROM PARTICIPATION IN AUTHORITY PROGRAMS AND TRANSACTIONS

CHAPTER 6
Reserved

CHAPTER 7
CONTESTED CASES

CHAPTER 20
Reserved

CHAPTER 21
HOME AND COMMUNITY-BASED SERVICES REVOLVING LOAN PROGRAM

CHAPTERS 22 and 23
Reserved

CHAPTER 24
HOME- AND COMMUNITY-BASED SERVICES RENT SUBSIDY PROGRAM

CHAPTER 25
Reserved

CHAPTER 26
WATER POLLUTION CONTROL WORKS AND
DRINKING WATER FACILITIES FINANCING PROGRAM

CHAPTER 27
MILITARY SERVICE MEMBER HOME OWNERSHIP ASSISTANCE PROGRAM

CHAPTER 28
WASTEWATER AND DRINKING WATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

CHAPTER 29
DISASTER RECOVERY HOUSING ASSISTANCE

CHAPTERS 30 to 38
Reserved

CHAPTER 39
HOME INVESTMENT PARTNERSHIPS PROGRAM

CHAPTER 40
Reserved

CHAPTER 41
SHELTER ASSISTANCE FUND

CHAPTER 42
EMERGENCY SOLUTIONS GRANT PROGRAM

CHAPTER 43
COMMUNITY HOUSING AND SERVICES FOR PERSONS WITH DISABILITIES REVOLVING LOAN PROGRAM

CHAPTER 21
HOME AND COMMUNITY-BASED SERVICES REVOLVING LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

265—21.1(16) Available funds. Any unallocated or recovered funds, payments of interest and principal, or any combination thereof, may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority.
[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

265—21.2(16) Application procedure. Applications for assistance under this program are to be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's website as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. In the event it becomes necessary to amend the application, the authority will post the amended version of the application on its website. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis.
[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

265—21.3(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

21.3(1) Projects meeting the following criteria are eligible for assistance:

a. In the case of adult day services:

(1) Set aside 40 percent of the admissions for those with incomes at or below 40 percent of area median income (AMI) for the county in which the property is located;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;

(3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and

(4) Become and remain certified as an adult day services provider as set forth in 481—Chapters 67 and 70.

b. In the case of respite services:

(1) Provide services to underserved people in the community;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;

(3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and

(4) Meet all local, state and federal requirements subject to health care limits of the proposed setting.

c. In the case of congregate meals, establish and maintain a contract with the area agency on aging to provide congregate meals under the standards established for such a program under the federal Older Americans Act.

d. In the case of programming space for health and wellness:

(1) Adopt research-based practices to prevent disease and improve overall wellness, resulting in measurable outcomes for participants;

(2) Provide educational opportunities on disease prevention, physical activity, and nutritional choices; and

(3) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay.

e. In the case of programming space for health screening:

(1) Use a licensed health care professional to provide screening and assessment services within the limits of the professional's license;

(2) Provide services to underserved people in the community; and

(3) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay.

f. In the case of programming space for nutritional assessments:

(1) Use a registered dietitian to provide assessment and counseling services;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay; and

(3) Accept third-party reimbursement for nutritional counseling, including one or both of the following:

1. Medicaid 1915(c) waiver(s) and meet the standards set forth in 441—Chapters 77 and 78;

2. The Older Americans Act, 42 U.S.C. §3001 et seq., and meet the standards set forth in 441—Chapter 228.

g. A demonstrated market need for the project and a good location, both as determined by the authority in its sole discretion.

h. Assistance provided under this program enables the project to maintain financial feasibility and affordability for at least the term of the loan.

i. Maintenance and debt service reserve funds are adequately funded, as determined by the authority in its sole discretion.

j. Comply with all applicable federal, state and local laws and rules related to the specified service or services offered by the sponsor.

21.3(2) The following types of activities are eligible for assistance:

a. Acquisition and rehabilitation.

b. New construction.

c. Rehabilitation to expand a current program.

d. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

21.3(3) Assistance will be provided upon the following terms and conditions:

a. The minimum loan amount is $50,000, and the maximum loan amount is $1 million. The maximum loan term and amortization period are each 20 years.

b. The acceptable debt service ratio and loan-to-value ratio will be calculated and determined by the authority.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. Recipients shall execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

21.3(4) Loan fees.

a. Loan fees are as follows:

(1) Commitment fee (construction period) – 1.0 percent of the loan amount.

(2) Commitment fee (permanent loan) – 2.0 percent of the loan amount.

(3) Inspection fee – 0.5 percent of construction loan amount.

(4) Application fee – 0.3 percent of total loan amount requested, payable with the submission of loan application.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

c. The authority will refund to the borrower one-half of the permanent loan commitment fee if the borrower's loan is paid off within five years of the closing of the loan.

[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

265—21.4(16) Authority analysis of applications. Authority staff, in cooperation with the department of inspections, appeals, and licensing or the division of aging and disability services within the Iowa department of health and human services (or both, as necessary), will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction, and the particular set of circumstances attributable to each particular application/transaction, the terms and conditions of loans may vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

265—21.5(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

265—21.6(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

[**ARC 0112D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 16.47.

[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed 5/5/05, Notice 3/30/05—published 5/25/05, effective 6/29/05]
[Filed 9/21/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed ARC 4795C (Notice ARC 4666C, IAB 9/25/19), IAB 12/4/19, effective 1/8/20]
[Filed ARC 0112D (Notice ARC 9798C, IAB 12/10/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 27
MILITARY SERVICE MEMBER HOME OWNERSHIP ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

265—27.1(16) Purpose. The purpose of the military service member home ownership assistance program is to help eligible members of the armed forces of the United States to purchase qualified homes in Iowa.

[**ARC 0113D**, IAB 3/4/26, effective 4/8/26]

265—27.2(16) Definitions. As used in this chapter, unless the context otherwise requires:

"Closing agent" means the attorney, real estate firm, or closing company that is closing the qualifying purchase transaction and that prepares the cash sale settlement statement.

"Eligible service member" means the same as defined in Iowa Code section 16.54.

"Facilitating lender" means a lender that is not a participating lender but that is approved by the authority to make loans under the military home ownership assistance program pursuant to Iowa Code section 16.54(5) and subrule 27.3(7).

"Home ownership assistance" means the one-time assistance of up to $5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home.

"Manufactured home" means the same as defined in Iowa Code section 435.1.

"Participating lender" means a lender approved for participation in one or more of the authority's first mortgage financing home buyer programs. The authority maintains a list of participating lenders on its website: www.welcomehomeia.com/find-lender-realtor.

"Program," "military home ownership assistance program" or *"MHOA"* means the military service member home ownership assistance program authorized by Iowa Code section 16.54.

"Qualified home" means a home located in the state of Iowa that an eligible service member purchases, occupies, and uses as the service member's primary residence that is one of the following:

1. Single-family residence, including "stick-built" homes, modular homes, or manufactured homes;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as the service member's primary residence.

"Qualified mortgage" means a permanent mortgage loan made pursuant to one of the authority's home buyer mortgage programs unless the lender offers financing that is more financially advantageous for the service member.

"Status documentation" means written documentation verifying that the applicant is an eligible service member. This documentation may include but is not limited to a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant's most recent leave and earnings statements representing 90 days of active duty.

"Title guaranty certificate" means the certificate issued by the Iowa title guaranty division of the authority pursuant to Iowa Code section 16.91 to ensure marketable title to the lender or the homeowner, or both.

[**ARC 0113D**, IAB 3/4/26, effective 4/8/26]

265—27.3(16) Application procedure and determination of eligibility.

27.3(1) *Prior approval.* Whether the purchase of a qualified home is by mortgage financing or cash, prior approval of the assistance by the authority is required. Approval of the request will include supporting document review by the authority and a determination of the service member's eligibility by the Iowa department of veterans affairs.

27.3(2) *Financed home purchases.*

a. Where a qualified home purchase is financed, the eligible service member is to apply for assistance under the program through a participating or facilitating lender. If the service member qualifies for one of the authority's home buyer mortgage programs, the mortgage financing provided is to be a qualified mortgage. Service members who are not eligible for one of the authority's home buyer mortgage programs and are not purchasing on a cash basis may use any permanent financing available to them.

b. To apply for assistance, eligible service members provide the participating or facilitating lender with status documentation and all necessary program documents.

c. Once the lender receives all necessary information under this subrule, the lender is to transmit copies of the necessary documentation to the authority.

27.3(3) *Cash home purchases.* For a cash purchase of a qualified home, the eligible service member provides the authority with:

a. Status documentation;

b. The purchase agreement; and

c. A title guaranty commitment.

27.3(4) *Referral of status documentation to Iowa department of veterans affairs.* The authority submits status documentation to the Iowa department of veterans affairs for verification that an applicant is an eligible service member. The Iowa department of veterans affairs is the final authority on whether an applicant is an eligible service member.

27.3(5) *Notice of MHOA approval.* Once the Iowa department of veterans affairs confirms an applicant's eligibility, the authority notifies the lender, or eligible service member in the case of a cash purchase, that the MHOA application is approved.

27.3(6) *Gaps in funding.* Where military assistance funds are unavailable during the home purchase process, MHOA requests may be placed on a waiting list. When funds become available after the home purchase closed without military assistance funds being applied toward closing costs or down payment, MHOA proceeds will be paid (1) directly to the participating lender or servicing lender to be applied toward the qualified mortgage loan's principal balance, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. The authority will notify the applicant that MHOA proceeds will be applied to the principal balance.

27.3(7) *Approval process for facilitating lender status.* Pursuant to Iowa Code section 16.54(5), an Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The approval to be a facilitating lender is valid for one year. Lenders are to submit an application and application fee of $1,500 annually. Application fees are not charged in part or in full to a service member or to a property seller.

[**ARC 0113D**, IAB 3/4/26, effective 4/8/26]

265—27.4(16) MHOA award. Assistance awarded hereunder is up to $5,000 and is applied toward a qualified home purchase.

27.4(1) *MHOA reimbursement.* The lender advances funds at closing in an amount equal to the assistance on behalf of the eligible service member.

a. After closing, the lender submits copies of the following documents to the authority:

(1) An executed settlement statement;

(2) The deed conveying title;

(3) A title guaranty commitment;

(4) The promissory note; and

(5) The mortgage.

b. After closing, for cash home purchasers, the eligible service member shall submit copies of the following documents to the authority:

(1) The executed settlement statement;

(2) The deed conveying title; and

(3) The executed title guaranty certificate.

27.4(2) *MHOA assistance conditions.* All assistance under the program is subject to funding availability. Assistance will be awarded in the order in which all required documentation is received and approved by the authority. Assistance awarded pursuant to the program is personal to its recipient and nonassignable. A maximum of one assistance award is awarded per home purchase. If both homeowners are eligible service members, only one may use the MHOA per home purchase. If another home is subsequently purchased, the other eligible service member may use the MHOA on the second home if the program exists and funds are available. An eligible service member is to receive only one award under the program. While program funds are available, the award is valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress that has been delayed due to circumstances beyond the service member's control.

[**ARC 0113D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.54.

[Filed emergency 7/14/06—published 8/2/06, effective 7/14/06]
[Filed emergency 4/3/07—published 4/25/07, effective 4/3/07]
[Filed emergency 6/12/08—published 7/2/08, effective 7/1/08]
[Filed 8/8/08, Notice 7/2/08—published 8/27/08, effective 10/1/08]
[Filed Emergency ARC 8945B, IAB 7/28/10, effective 7/6/10]
[Filed ARC 9803B (Notice ARC 9590B, IAB 6/29/11), IAB 10/5/11, effective 11/9/11]
[Filed ARC 0827C (Notice ARC 0683C, IAB 4/3/13), IAB 7/10/13, effective 8/14/13][1]
[Filed Emergency ARC 1142C, IAB 10/30/13, effective 10/15/13]
[Filed ARC 1253C (Notice ARC 1141C, IAB 10/30/13), IAB 12/25/13, effective 1/29/14]
[Filed Emergency ARC 1595C, IAB 9/3/14, effective 8/6/14]
[Filed ARC 1854C (Notice ARC 1594C, IAB 9/3/14), IAB 2/4/15, effective 3/11/15]
[Filed ARC 3424C (Notice ARC 3273C, IAB 8/30/17), IAB 10/25/17, effective 11/29/17]
[Filed ARC 4265C (Notice ARC 4028C, IAB 9/26/18), IAB 1/30/19, effective 3/6/19]
[Filed ARC 0113D (Notice ARC 9826C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

[1] August 14, 2013, effective date of ARC 0827C [27.3(2)] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 6, 2013.

CHAPTER 39
HOME INVESTMENT PARTNERSHIPS PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

265—39.1(16) Purpose. The primary purpose of HOME is to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families or to strengthen public-private partnerships or to provide direct rental assistance to low-income people.
[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.2(16) Definitions. When used in this chapter unless the context otherwise requires:

"Activity" means one or more specific housing activities, projects or programs assisted through HOME.

"Administrative plan" means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

"Authority" means the Iowa finance authority established pursuant to Iowa Code section 16.1A.

"CHDO" means a community housing development organization certified as such by the authority pursuant to 24 CFR §92.2.

"Consolidated plan" means the state's housing and community development planning document and the annual action plan update approved by HUD pursuant to 24 CFR 91.

"Contract" means a binding written agreement executed by the authority and the recipient or subrecipient for the purpose of utilizing HOME funds to build, buy or rehabilitate (or both buy and rehabilitate) affordable housing for rent or homeownership or to provide direct rental assistance to low-income people.

"HOME" means the HOME Investment Partnerships Program authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

"HUD" means the U.S. Department of Housing and Urban Development.

"Low-income" means families whose annual incomes do not exceed 80 percent of the median income for the area as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; is not a person with disabilities as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act, or does not have parents who qualify as low-income.

"Period of affordability" means the period of time as specified in 24 CFR §92.252 and 24 CFR §92.254 that requirements under HOME must be followed.

"Program income" means gross income received by the participating jurisdiction, state recipient, or a subrecipient at any time, generated from the use of HOME funds or matching contributions.

"Project" means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

"Recaptured funds" means HOME funds that are recouped by the recipient when the housing unit assisted by the HOME program homebuyer funds does not continue to be the principal residence of the assisted homebuyer for the full period of affordability.

"Recipient" means the entity under contract with the authority to receive HOME funds and undertake the funded housing activity.

"Repayment" means HOME funds that the recipient repays to the authority because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity that failed to comply with federal program requirements.

"Subrecipient" means a governmental entity or nonprofit organization selected by the authority to administer all or a portion of the authority's HOME programs to produce affordable housing, provide homeownership assistance, or provide tenant-based rental assistance under the HOME program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by the authority is not subject to the procurement procedures and requirements under federal or state law.

"Very low-income" means low-income families whose annual incomes do not exceed 50 percent of the median family income for the area as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.3(16) Eligible applicants. Eligible applicants for HOME assistance include nonprofit 501(c) organizations, CHDOs, and for-profit corporations or partnerships.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities may include tenant-based rental assistance, rental housing rehabilitation, rental housing new construction and adaptive reuse, homebuyer assistance that includes some form of direct subsidy to the homebuyer, and other housing-related activities as may be deemed appropriate by the authority.

39.4(2) Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by the authority.

39.4(3) Program income may be retained by the recipient upon written agreement prepared by the authority and executed by the recipient or subrecipient and the authority.

39.4(4) A site including any building located thereon or project acquired or used for rental activities must be held in fee simple title by the recipient upon the disbursement of HOME funds and throughout the contract term with the authority. An installment contract or leasehold interest is not an acceptable recipient interest.

39.4(5) A site including any building located thereon or project acquired or used for homebuyer activities must be held in fee simple title by the recipient or homebuyer upon the disbursement of HOME funds and throughout the contract term with the authority. An installment contract or leasehold interest is not an acceptable recipient or homebuyer interest.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.5(16) Application procedure. HOME applications will be received from eligible applicants in the online system prescribed by the authority as often as the state expects funding from HUD. At a minimum, applications will include the amount of funds requested, a description of the need for the funds, documentation of other available committed funding sources, the source of required local

match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by the authority for each application round.
[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.6(16) Application requirements. An application that meets the following threshold criteria will be considered for HOME assistance:

39.6(1) The application proposes a housing activity consistent with the HOME fund purpose and eligibility requirements and the state consolidated plan approved by HUD.

39.6(2) The application documents the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. The authority reserves sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

39.6(3) Recipients of funds for homeownership as defined by 24 CFR §92.254 may allow the beneficiaries of the funds to use a principal mortgage loan product from a third party that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan is the only repayable loan in all individual homebuyer assistance projects.

b. The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME homebuyer assistance must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form of assistance, such as home equity loans. A homebuyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

c. Any mortgage lending entity's principal mortgage loan products may be used provided the entity's principal mortgage includes the following terms:

(1) Fully amortized, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125 percent;

(2) No less than a 15-year, fully amortized, fixed-rate mortgage will be allowed; and

(3) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.
[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.7(16) Application review criteria.

39.7(1) The authority will evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity to be undertaken. The general activity criteria will be included in the application. Training will be offered prior to the application deadline to provide information and technical assistance to potential applicants.

39.7(2) Notice of the availability of funding and the funding round requirements will be placed on the authority's website at opportunityiowa.gov.
[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.8(16) Allocation of funds.

39.8(1) The authority may retain up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

39.8(2) Not less than 15 percent of the state's annual HOME allocation is reserved for eligible housing activities developed, sponsored or owned by CHDOs unless HUD allows a lower percentage.

39.8(3) The authority reserves the right to negotiate the amount of funds provided for general administration, but the maximum amount of the total HOME award that may be used for general

administrative costs is 10 percent of the HOME award. Only local government and nonprofit recipients are eligible for general administrative funds.

39.8(4) The authority reserves the right to negotiate the amount and terms of a HOME award.

39.8(5) The authority reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.9(16) Administration of awards. Applicants selected to receive HOME awards will be notified by letter from the authority's director or designee. The authority and the recipient or subrecipient will execute a contract prepared by the authority.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.10(16) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. Adequate and itemized documentation supporting the amount of funds requested must be provided to and approved by the authority prior to release of funds. For rental projects, the authority may retain up to 10 percent of the total HOME award for up to 30 days after the recipient satisfactorily completes the work, all HOME-assisted units have been initially occupied, and a final draw and completion form has been submitted to and approved by the authority.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

265—39.11(16) References. All references to the Code of Federal Regulations, United States Code, and federal acts, including the Cranston-Gonzalez National Affordable Housing Act of 1990 and the United States Housing Act of 1937, in this chapter are as in effect April 8, 2026.

[**ARC 0114D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 16.5(1)*"f"* and *"m"* and the Cranston-Gonzalez National Affordable Housing Act of 1990.

[Filed Emergency ARC 8963B, IAB 7/28/10, effective 7/8/10]
[Filed ARC 9284B (Notice ARC 9159B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]
[Filed Emergency ARC 9802B, IAB 10/5/11, effective 9/16/11]
[Filed ARC 9764B (Notice ARC 9644B, IAB 7/27/11), IAB 10/5/11, effective 11/9/11]
[Filed Emergency ARC 0003C, IAB 2/8/12, effective 1/20/12]
[Filed Emergency After Notice ARC 0500C (Notice ARC 0296C, IAB 8/22/12), IAB 12/12/12, effective 11/19/12]
[Filed ARC 1140C (Notice ARC 0997C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 3425C (Notice ARC 3274C, IAB 8/30/17), IAB 10/25/17, effective 11/29/17]
[Filed ARC 0114D (Notice ARC 9797C, IAB 12/10/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 43
COMMUNITY HOUSING AND SERVICES FOR PERSONS WITH DISABILITIES REVOLVING LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

265—43.1(16) Definitions. When used in this chapter, unless the context otherwise requires:

"Authority" means the Iowa finance authority.

"Department" means the Iowa department of health and human services.

"Infrastructure" means the building and permanent improvements necessary for the support of Medicaid waiver-eligible individuals.

"Medicaid waiver-eligible" means eligible to receive 19 U.S.C. Section 1915(c) home and community-based services waivers under 441—Chapter 83.

"Permanent supportive housing" means a community-based dwelling that has supportive services for persons with disabilities. This type of supportive housing enables special needs populations to live as independently as possible in a permanent setting.

"PMIC" means psychiatric medical institutions for children.

"Program" means the community housing and services for persons with disabilities revolving loan program.

[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.2(16) Award of loan funds. It is the authority's intent to award loans under the program to those applicants that meet all of the requirements of this chapter and the published underwriting standards of the loan program. The authority intends to award the available funds under this program each year if applicants meet all applicable requirements.

[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.3(16) Application process. Any unallocated or recovered funds, payments of interest and principal, or any combination thereof, may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority. The authority occasionally will take such applications and will analyze and award loans to applicants on an ongoing basis.

[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.4(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program based on the following program guidelines after receiving approval of a service plan to benefit the Medicaid waiver-eligible individuals who reside in the project. The service provider may apply for the loan fund; however, the service provider does not have to be the applicant for the loan fund. If the service provider is not the loan applicant, a memorandum of understanding must exist between the loan applicant and the service provider that shows an obligation on behalf of the service provider to deliver services to the Medicaid waiver-eligible individuals residing in the project and that shows that the loan applicant is obligated to offer housing to the Medicaid waiver-eligible individuals who need the services provided by the service provider.

43.4(1) Projects meeting the following criteria are eligible for assistance:

a. Written approval from the department for the proposed project is obtained prior to application for loan funds.

b. In order to be approved by the department, the project must demonstrate all of the following components:

(1) The project serves one of the following Medicaid waiver-eligible populations:

1. Individuals who are currently underserved in community settings, including individuals who are physically aggressive or have behaviors that are difficult to manage or individuals who meet the PMIC level of care; or

2. Individuals who are currently placed out of state by the department; or

3. Individuals who are currently receiving care in an Iowa-licensed health care facility.

(2) A plan to provide each Medicaid waiver-eligible individual with crisis stabilization services to ensure that the individual's behavioral issues are appropriately addressed by the provider.

(3) Policies and procedures that prohibit discharge of the Medicaid waiver-eligible individual from the waiver services provided by the project provider unless an alternative placement that is acceptable to the individual or the individual's guardian is identified.

c. In order to be approved by the department for application for funding for development of infrastructure in which to provide supportive services under this chapter, a project shall include all of the following components:

(1) Provision of services to Medicaid waiver-eligible individuals who meet the PMIC level of care.

(2) Policies and procedures that prohibit discharge of the Medicaid waiver-eligible individual from the waiver services provided by the project provider, unless an alternative placement that is acceptable to the individual or the individual's guardian is identified.

43.4(2) The following types of activities are eligible for assistance:

a. Acquisition and rehabilitation.

b. New construction.

c. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

43.4(3) Assistance will be provided upon the following terms and conditions:

a. The minimum loan amount is $50,000, and the maximum loan amount is $500,000. The maximum loan term and the amortization period is each 30 years.

b. The acceptable debt service ratio and loan-to-value ratio will be calculated and determined by the authority.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage to the extent possible. Construction financing may be awarded to projects.

e. Recipients of assistance must agree to observe several covenants and restrictions all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. The recipient must show that its title in the real estate on which the project is to be located is a marketable title pursuant to Iowa Land Title Examination Standards or other applicable law through a title guaranty certificate issued by the title guaranty division of the Iowa finance authority that shows the recipient as the guaranteed and that includes any endorsements required by the authority.

g. Recipients must execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

43.4(4) Loan fees.

a. Loan fees are as follows:

(1) Application fee – 0.3 percent of loan amount.

(2) Commitment fee (construction period) – 1.0 percent of loan amount.

(3) Commitment fee (permanent loan) – 2.0 percent of loan amount.

(4) Inspection fee (construction loan) – 0.5 percent of loan amount.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the authority board of directors. Authority staff will use such procedures and processes in its underwriting and analysis as

it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction and the particular set of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program.
[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.6(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not to award assistance and to approve final loan terms.
[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

265—43.7(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.
[**ARC 0115D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code sections 16.5(1) and 16.49.

[Filed Emergency ARC 9690B, IAB 8/24/11, effective 8/18/11]
[Filed ARC 9878B (Notice ARC 9692B, IAB 8/24/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 2008C (Notice ARC 1903C, IAB 3/4/15), IAB 5/27/15, effective 7/1/15]
[Filed ARC 0115D (Notice ARC 9799C, IAB 12/10/25), IAB 3/4/26, effective 4/8/26]

HIGHER EDUCATION LOAN AUTHORITY[284]

Created by 1986 Iowa Acts, chapter 1245 under the "umbrella" of the Education Department[281]

CHAPTER 1
ORGANIZATION AND OPERATIONS

[Prior to 5/18/88 see Higher Education Loan Authority 480—Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

284—1.1(261A) Organization and operations.

1.1(1) *Location.* The mailing address of the authority is located at 1105 High Road, Box 214, Norwalk, Iowa 50211.

1.1(2) *The authority.* The powers of the authority are vested in and exercised by the members of the authority pursuant to Iowa Code chapter 261A.

1.1(3) *Meetings.*

a. The chairperson of the authority presides at each meeting. Members of the public may be recognized at the discretion of the chairperson. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

b. Public notice. The authority will give advance public notice of the specific date, time and place of each authority meeting.

1.1(4) *Minutes.* The minutes of all authority meetings are recorded by the secretary and kept in the authority's possession.

1.1(5) *Submission and requests.* Inquiries, submissions, petitions, and other requests directed to the authority may be made in writing addressed to the authority's mailing address listed in subrule 1.1(1). Any person may petition for a written or oral hearing before the authority. All requests for a hearing are in writing and state the specific subject to be discussed and the reasons why a personal appearance is necessary if one is requested.

1.1(6) *Administration of programs.* The authority may adopt manuals, instructions or other statements as necessary to assist its employees in administering its programs and to permit individuals and organizations to participate in programs administered by the authority. Copies of all manuals, instructions and other statements are kept in the authority's possession and are available for public inspection, except for those portions that are excluded from the definition of "rule" by Iowa Code section 17A.2(11)*"f"* or that must be kept confidential under applicable statutes or these rules. Members of the public may inspect the materials adopted pursuant to this rule, subject to the exceptions set out above, during regular business hours and may obtain a reasonable number of copies of the materials upon payment of a fee not to exceed the cost of providing copies.

This rule is intended to implement Iowa Code chapter 261A.

[**ARC 0104D**, IAB 3/4/26, effective 4/8/26]

[Filed 4/15/86, Notice 2/12/86—published 5/7/86, effective 6/11/86]
[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 7/1/88]
[Filed ARC 0104D (Notice ARC 9866C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 2
PETITIONS FOR RULEMAKING

[Prior to 5/18/88, see Higher Education Loan Authority, 480—Ch 2]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

The higher education loan authority hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

[**ARC 0105D**, IAB 3/4/26, effective 4/8/26]

284—2.1(261A) Petition for rulemaking. In lieu of the words "(AGENCY NAME)", the heading on the petition form should read:

IOWA HIGHER EDUCATION LOAN AUTHORITY

[**ARC 0105D**, IAB 3/4/26, effective 4/8/26]

284—2.3(261A) Inquiries. Inquiries concerning the status of a petition for rulemaking may be made to the Executive Director, 1105 High Road, Box 214, Norwalk, Iowa 50211.

[**ARC 0105D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 17A.24 and chapter 261A.

[Filed 4/15/86, Notice 2/12/86—published 5/7/86, effective 6/11/86]
[Filed 10/31/86, Notice 9/10/86—published 11/19/86, effective 12/24/86]
[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]
[Filed ARC 0105D (Notice ARC 9867C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 3
DECLARATORY ORDERS

[Prior to 5/18/88, see Higher Education Loan Authority, 480—Ch 2]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

The higher education loan authority hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.
[**ARC 0106D**, IAB 3/4/26, effective 4/8/26]

284—3.1(261A) Petition for declaratory orders. In lieu of the words "(AGENCY NAME)", the heading on the petition form should read:

IOWA HIGHER EDUCATION LOAN AUTHORITY

[**ARC 0106D**, IAB 3/4/26, effective 4/8/26]

284—3.5(261A) Inquiries. Inquiries concerning the status of a petition for a declaratory order may be made to the Executive Director, 1105 High Road, Box 214, Norwalk, Iowa 50211.
[**ARC 0106D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 17A.24 and chapter 261A.

[Filed 4/15/86, Notice 2/12/86—published 5/7/86, effective 6/11/86]
[Filed 10/31/86, Notice 9/10/86—published 11/19/86, effective 12/24/86]
[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]
[Filed ARC 0106D (Notice ARC 9868C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 4
AGENCY PROCEDURE FOR RULEMAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

The higher education loan authority hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.3(261A) Public rulemaking docket.

4.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)", insert "authority".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.4(261A) Notice of proposed rulemaking.

4.4(3) *Copies of notices.* In lieu of the words "(specify time period)", insert "three years".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.5(261A) Public participation.

4.5(1) *Written comments.* In lieu of the words "(identify office and address)", insert "Iowa Higher Education Loan Authority, 1105 High Road, Box 214, Norwalk, Iowa 50211".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.6(261A) Regulatory analysis.

4.6(2) *Mailing list.* In lieu of the words "(designate office)", insert "Iowa Higher Education Loan Authority, 1105 High Road, Box 214, Norwalk, Iowa 50211".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.10(261A) Exemptions from public rulemaking procedures.

4.10(2) Reserved.

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.11(261A) Concise statement of reasons.

4.11(1) *General.* In lieu of the words "(specify the office and address)", insert "Iowa Higher Education Loan Authority, 1105 High Road, Box 214, Norwalk, Iowa 50211".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

284—4.13(261A) Agency rulemaking record.

4.13(2) *Contents.*

c. In lieu of the words "(agency head)", insert "executive director".

[**ARC 0107D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 17A.24 and chapter 261A.

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed ARC 0107D (Notice ARC 9869C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 5
FAIR INFORMATION PRACTICES

[Prior to 5/18/88, see Higher Education Loan Authority[480], subrule 1.2(5)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

The higher education loan authority hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[**ARC 0108D**, IAB 3/4/26, effective 4/8/26]

284—5.1(261A) Definition. As used in this chapter:

"Agency" or *"authority"* means the Iowa higher education loan authority.

[**ARC 0108D**, IAB 3/4/26, effective 4/8/26]

284—5.3(261A) Requests for access to records.

5.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "executive director", and in lieu of the words "(insert agency name and address)", insert "Iowa Higher Education Loan Authority at 1105 High Road, Box 214, Norwalk, Iowa 50211".

5.3(2) *Office hours.* Records are made available from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m. daily, excluding Saturdays, Sundays and legal holidays.

5.3(3) *Request for access.* In lieu of the first sentence, insert "Requests for access to open records may be made in writing or by telephone."

5.3(7) *Fees.*

c. *Supervisory fee.* Reserved.

d. *Advance deposits.* Reserved.

[**ARC 0108D**, IAB 3/4/26, effective 4/8/26]

284—5.6(261A) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "Iowa Higher Education Loan Authority, 1105 High Road, Box 214, Norwalk, Iowa 50211".

[**ARC 0108D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code section 17A.24 and chapter 261A.

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed ARC 0108D (Notice ARC 9870C, IAB 12/24/25), IAB 3/4/26, effective 4/8/26]

HUMAN SERVICES DEPARTMENT[441]

Rules transferred from Social Services Department[770] to Human Services Department[498], see 1983 Iowa Acts, Senate File 464, effective July 1, 1983.
Rules transferred from agency number [498] to [441] to conform with the reorganization numbering scheme in general, IAC Supp. 2/11/87.

GENERAL DEPARTMENTAL PROCEDURES

TITLE I

CHAPTER 1
DEPARTMENT ORGANIZATION AND GENERAL DEFINITIONS

CHAPTER 2
Reserved

CHAPTER 3
DEPARTMENT PROCEDURE FOR RULEMAKING

CHAPTER 4
PETITIONS FOR RULEMAKING

CHAPTER 5
DECLARATORY ORDERS

CHAPTER 6
WAIVERS OF HEALTH AND HUMAN SERVICES ADMINISTRATIVE RULES

CHAPTER 7
APPEALS AND HEARINGS

DIVISION I
GENERAL APPEALS PROCESS

CHAPTER 31
CIVIL COMMITMENT UNIT FOR SEXUAL OFFENDERS

CHAPTERS 32 to 35
Reserved

CHAPTER 36
FACILITY ASSESSMENTS

CHAPTER 37
Reserved

CHAPTER 38
DEVELOPMENTAL DISABILITIES BASIC STATE GRANT

CHAPTER 39
Reserved

TITLE IV
FAMILY INVESTMENT PROGRAM

CHAPTER 40
APPLICATION FOR AID

CHAPTER 41
GRANTING ASSISTANCE

CHAPTERS 42 to 44
Reserved

CHAPTER 45
PAYMENT

CHAPTER 46
OVERPAYMENT RECOVERY

CHAPTER 47
DIVERSION INITIATIVES

CHAPTER 48
PROMOTING AWARENESS OF THE BENEFITS OF A HEALTHY MARRIAGE

CHAPTER 49
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY (FaDSS) PROGRAM

CHAPTERS 58 and 59
Reserved

CHAPTER 60
REFUGEE CASH ASSISTANCE

60.1(217) Alienage requirements
60.2(217) Application procedures
60.3(217) Effective date of grant
60.4(217) Accepting other assistance
60.5(217) Eligibility factors
60.6(217) Students in institutions of higher education
60.7(217) Time limit for eligibility
60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register
60.9(217) Work and training requirements
60.10(217) Uncategorized factors of eligibility
60.11(217) Temporary absence from home
60.12(217) Application
60.13(217) Continuing eligibility
60.14(217) Alternate payees
60.15(217) Payment
60.16(217) Overpayment recovery

CHAPTER 61
REFUGEE SERVICES PROGRAM

61.1(217) Definitions
61.2(217) Authority
61.3(217) Eligibility
61.4(217) Planning and coordinating the placement of refugees
61.5(217) Services of the department available for refugees
61.6(217) Provision of services
61.7(217) Application for services
61.8(217) Adverse service actions
61.9(217) Client appeals
61.10(217) Refugee resettlement moneys
61.11(217) Unaccompanied refugee minors program
61.12(217) Targeted assistance grants

CHAPTER 62
RENT REIMBURSEMENT

62.1(425) Eligible claimants
62.2(425) Dual claims
62.3(425) Multipurpose building
62.4(425) Income
62.5(425) Simultaneous homesteads
62.6(425) Mobile, modular, and manufactured homes
62.7(425) Totally disabled
62.8(425) Household
62.9(425) Homestead
62.10(425) Gross rent/rent constituting property taxes paid
62.11(425) Leased land
62.12(425) Property: taxable status
62.13(425) Income: spouse
62.14(425) Common law marriage
62.15(425) Audit of claim
62.16(425) Extension of time for filing a claim
62.17(425) Proration of claims
62.18(425) Unreasonable hardship
62.19(425) Appeal

CHAPTERS 63 and 64
Reserved

TITLE VII
FOOD PROGRAMS

CHAPTER 65
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATION

CHAPTER 66
EMERGENCY FOOD ASSISTANCE PROGRAM

CHAPTER 67
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

CHAPTERS 68 to 72
Reserved

TITLE VIII
MEDICAL ASSISTANCE

CHAPTER 73
MANAGED CARE

CHAPTER 74
IOWA HEALTH AND WELLNESS PLAN

CHAPTER 75
CONDITIONS OF ELIGIBILITY

DIVISION I
DEFINITIONS, COVERAGE GROUPS, AND GENERAL CONDITIONS OF ELIGIBILITY

CHAPTER 77
CONDITIONS OF PARTICIPATION FOR PROVIDERS OF MEDICAL AND REMEDIAL CARE

CHAPTER 78
AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL SERVICES

CHAPTER 79
OTHER POLICIES RELATING TO PROVIDERS OF
MEDICAL AND REMEDIAL CARE

CHAPTER 80
PROCEDURE AND METHOD OF PAYMENT

CHAPTER 81
NURSING FACILITIES

CHAPTER 82
INTERMEDIATE CARE FACILITIES FOR PERSONS WITH AN INTELLECTUAL DISABILITY

CHAPTER 83
MEDICAID WAIVER SERVICES

DIVISION I—HCBS HEALTH AND DISABILITY WAIVER SERVICES

DIVISION II—HCBS ELDERLY WAIVER SERVICES

DIVISION III—HCBS AIDS/HIV WAIVER SERVICES

CHAPTER 84
EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

CHAPTER 85
SERVICES IN PSYCHIATRIC INSTITUTIONS

CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWKI) PROGRAM

CHAPTER 87
FAMILY PLANNING PROGRAM

CHAPTER 88
SPECIALIZED MANAGED CARE PROGRAMS

TITLE X
SUPPORT RECOVERY

CHAPTER 94
CHILD SUPPORT PROMOTING OPPORTUNITIES FOR PARENTS PROGRAM

CHAPTER 95
CHILD SUPPORT SERVICES

CHAPTER 96
INFORMATION AND RECORDS

CHAPTER 97
COLLECTION SERVICES CENTER

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

CHAPTER 99
CHILD SUPPORT GUIDELINES

CHAPTER 100
ESTABLISHMENT OF PATERNITY AND SUPPORT

CHAPTER 101
ADJUSTMENT AND MODIFICATION OF SUPPORT

CHAPTER 102
SUSPENSION AND REINSTATEMENT OF SUPPORT

CHAPTER 106
CERTIFICATION STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

CHAPTER 107
CERTIFICATION OF ADOPTION INVESTIGATORS

CHAPTER 108
LICENSING AND REGULATION OF CHILD-PLACING AGENCIES

CHAPTER 109
CHILD CARE CENTERS

CHAPTER 110
CHILD DEVELOPMENT HOMES

CHAPTER 111
FAMILY-LIFE HOMES

CHAPTER 112
LICENSING AND REGULATION OF CHILD FOSTER CARE FACILITIES

CHAPTER 113
LICENSING AND REGULATION OF FOSTER FAMILY HOMES

CHAPTER 114
LICENSING AND REGULATION OF ALL GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN

CHAPTER 115
LICENSING AND REGULATION OF COMPREHENSIVE RESIDENTIAL FACILITIES FOR CHILDREN

CHAPTER 116
LICENSING AND REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN WITH AN INTELLECTUAL DISABILITY OR BRAIN INJURY

CHAPTER 117
FOSTER PARENT TRAINING

CHAPTER 118
CHILD CARE QUALITY RATING SYSTEM

DIVISION I
QUALITY RATING SYSTEM (QRS)

DIVISION II
IOWA QUALITY FOR KIDS (IQ4K)

CHAPTER 119
RECORD CHECK EVALUATIONS FOR CERTAIN EMPLOYERS AND EDUCATIONAL TRAINING PROGRAMS

CHAPTER 120
CHILD CARE HOMES

CHAPTER 121
EARLY CHILDHOOD IOWA INITIATIVE

CHAPTER 122
FISCAL OVERSIGHT OF THE EARLY CHILDHOOD IOWA INITIATIVE

CHAPTERS 123 and 124
Reserved

CHAPTER 125
KINSHIP FOSTER CARE APPROVAL STANDARDS

CHAPTERS 126 to 129
Reserved

TITLE XIII
SERVICE ADMINISTRATION

CHAPTER 130
GENERAL PROVISIONS

CHAPTER 131
SOCIAL CASEWORK

CHAPTER 132
Reserved

CHAPTER 133
IV-A EMERGENCY ASSISTANCE PROGRAM

CHAPTERS 134 to 141
Reserved

CHAPTER 142
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

CHAPTER 143
INTERSTATE COMPACT ON JUVENILES

CHAPTERS 144 to 149
Reserved

TITLE XIV
GRANT/CONTRACT/PAYMENT ADMINISTRATION

CHAPTER 150
Reserved

CHAPTER 151
JUVENILE COURT SERVICES DIRECTED PROGRAMS

DIVISION I
GENERAL PROVISIONS

DIVISION II
COURT-ORDERED SERVICES

DIVISION III
GRADUATED SANCTION SERVICES

CHAPTER 152
FOSTER CARE CONTRACTING

CHAPTER 153
FUNDING FOR LOCAL SERVICES

DIVISION I
SOCIAL SERVICES BLOCK GRANT

DIVISION II
DECATEGORIZATION OF CHILD WELFARE AND JUVENILE JUSTICE FUNDING

DIVISION III
MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES—LOCAL SERVICES

DIVISION IV
STATE PAYMENT PROGRAM FOR LOCAL MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES TO ADULTS WITHOUT LEGAL SETTLEMENT

CHAPTER 154
Reserved

CHAPTER 155
CHILD ABUSE PREVENTION PROGRAM

CHAPTER 156
PAYMENTS FOR FOSTER CARE

CHAPTER 157
Reserved

CHAPTER 158
FOSTER HOME INSURANCE FUND

CHAPTER 159
CHILD CARE RESOURCE AND REFERRAL SERVICES

CHAPTERS 160 to 162
Reserved

CHAPTER 163
ADOLESCENT PREGNANCY PREVENTION AND SERVICES TO PREGNANT AND PARENTING ADOLESCENTS PROGRAMS

CHAPTER 164
MORE OPTIONS FOR MATERNAL SUPPORT (MOMS) PROGRAM

CHAPTER 165
Reserved

CHAPTER 166
QUALITY IMPROVEMENT INITIATIVE GRANTS

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT

DIVISION I
ANNUAL REIMBURSEMENT PROGRAM

DIVISION II
SEVENTY-TWO HOUR REIMBURSEMENT PROGRAM

CHAPTERS 168 and 169
Reserved

TITLE XV
INDIVIDUAL AND FAMILY SUPPORT
AND PROTECTIVE SERVICES

CHAPTER 170
CHILD CARE SERVICES

CHAPTER 171
Reserved

CHAPTER 172
FAMILY-CENTERED SERVICES

CHAPTER 173
Reserved

CHAPTER 174
STUDENT ABUSE REPORTS AND INVESTIGATIONS

CHAPTER 175
ABUSE OF CHILDREN

DIVISION I
CHILD ABUSE

DIVISION II
CHILD ABUSE ASSESSMENT

CHAPTER 176
DEPENDENT ADULT ABUSE

CHAPTER 177
IN-HOME HEALTH-RELATED CARE

CHAPTERS 178 to 183
Reserved

CHAPTER 184
INDIVIDUAL AND FAMILY DIRECT SUPPORT

DIVISION I
FAMILY SUPPORT SUBSIDY PROGRAM

DIVISION II
COMPREHENSIVE FAMILY SUPPORT PROGRAM

CHAPTERS 185 and 186
Reserved

CHAPTER 187
AFTERCARE SERVICES PROGRAM

CHAPTERS 188 to 199
Reserved

TITLE XVI
ALTERNATIVE LIVING

CHAPTER 200
ADOPTION SERVICES

CHAPTER 201
SUBSIDIZED ADOPTIONS

CHAPTER 202
FOSTER CARE PLACEMENT AND SERVICES

CHAPTER 203
IOWA ADOPTION EXCHANGE

CHAPTER 204
SUBSIDIZED GUARDIANSHIP PROGRAM

CHAPTERS 205 to 209
Reserved

TITLE XVII
AGING AND DISABILITY SERVICES

CHAPTERS 210 to 220
Reserved

CHAPTER 221
DISABILITY SERVICES DEFINITIONS

CHAPTER 222
DISABILITY SERVICES ADVISORY COUNCILS

CHAPTER 223
DISABILITY SERVICES

CHAPTER 224
AGING AND DISABILITY RESOURCE CENTERS

CHAPTER 225
AGING SERVICES

CHAPTER 226
STATE UNIT ON AGING RESPONSIBILITIES

CHAPTER 227
AREA AGENCY ON AGING RESPONSIBILITIES

CHAPTER 228
DELIVERY OF AGING SERVICES

CHAPTER 229
DATA COLLECTION

CHAPTER 230
LONG-TERM CARE OMBUDSMAN

CHAPTER 231
OFFICE OF PUBLIC GUARDIAN

CHAPTERS 232 to 299
Reserved

TITLE XVIII
BEHAVIORIAL HEALTH SERVICES

CHAPTER 300
DEFINITIONS

CHAPTER 301
BEHAVIORAL HEALTH SERVICE SYSTEM ELIGIBILITY AND SERVICES

CHAPTER 302
BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATIONS

CHAPTER 303
Reserved

CHAPTER 304
DISTRICT BEHAVIORAL HEALTH ADVISORY COUNCILS

CHAPTER 305
MENTAL HEALTH ADVOCATES

CHAPTER 306
OPIOID SETTLEMENT FUND DISBURSEMENT

CHAPTERS 307 to 309
Reserved

CHAPTER 310
DATA COLLECTION

TITLE XII
LICENSING AND APPROVED STANDARDS

CHAPTER 105
JUVENILE DETENTION AND SHELTER CARE HOMES

[Prior to 7/1/83, Social Services[770] Ch 105]
[Prior to 2/11/87, Human Services[498]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

441—105.1(232) Definitions.

"Administrator," when used for matters related to a certificate of approval or a certificate of license, means the administrator of the division of adult, children and family services.

"Authorized prescriber" means those persons identified in Iowa Code section 147.107 and Iowa Code chapter 154.

"Chemical restraint" means the use of chemical agents including psychotropic drugs as a form of restraint. The therapeutic use of psychotropic medications as a component of a service plan for a particular child is not considered chemical restraint.

"Child care worker" shall mean an individual employed by a facility whose primary responsibility is the direct care of the children in the facility.

"Coed facility" shall mean a facility which has both sexes in residence.

"Control room" shall mean a locked room in a juvenile detention home, used for the purpose of isolation or seclusion of a child. A control room shall not be allowed in a juvenile shelter care home.

"County or multicounty" shall mean that the governing body is a county board of supervisors or a combination of representatives from county boards of supervisors.

"Facility" shall mean a county or multicounty "juvenile detention home" or county or multicounty "juvenile shelter care home" as defined in Iowa Code section 232.2, and private juvenile detention and shelter care homes as defined in Iowa Code section 232.2 which do not meet the requirements of being "county or multicounty."

"Immediate family," for the purposes of this chapter, means persons who have a blood or legal relationship with the child.

"Mechanical restraint" means restriction by the use of a mechanical device of a child's mobility or ability to use the hands, arms or legs.

"Medication management and administration" means to properly tend to prescription and nonprescription medications, including, but not limited to: properly obtaining and storing medication; removing medication from its storage place; ensuring to the extent possible that the child ingests, applies, or uses the appropriate dosage at the appropriate time of day; and documenting the dosage and the time and date that the child ingested, applied, or used the medication.

"Nonprescription medication" means any drug or device that is not a prescription medication as defined in this chapter.

"Physical restraint" means direct physical contact required on the part of a staff person to prevent a child from hurting self, others, or property.

"Prescription medication" means a prescription drug as defined in Iowa Code section 155A.3(30).

"Prone restraint" means a physical restraint in which a child is held face down on the floor.

"Protective locked environment" means the same as defined in Iowa Code section 237.1(17).

"Schedule II medications" means those controlled substances identified in Iowa Code chapter 124.

"Staff" means any person providing care or services to or on behalf of the residents whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

"Time out" applies only to shelter care homes and means the temporary and short-term restriction of a resident for a period of time to a designated area from which the resident is not physically

prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control. Staff physically preventing the resident from leaving the time out area would be considered seclusion in control room conditions.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—105.2(232) Buildings and grounds.

105.2(1) *Grounds.*

a. An outdoor play area of 75 square feet per child shall be provided.

b. The play area shall be identified and kept free from hazards that could cause injury to a child.

c. Rubbish and trash shall be kept separated from the play area.

d. The grounds shall be adequately drained.

105.2(2) *Buildings.*

a. All living areas shall:

(1) Have screens on windows used for ventilation.

(2) Be maintained in clean, sanitary conditions, free from vermin, rodents, dampness, noxious gases, and objectionable odors.

(3) Be in safe repair.

(4) Provide for adequate lighting when natural sunlight is inadequate.

(5) Have heating and storage areas separated from sleeping or play areas.

(6) Have walls and ceilings surfaced with materials that are asbestos free.

b. All sleeping rooms shall be of finished construction and provide a minimum of 60 square feet per child for multiple occupancy, 80 square feet per child for single occupancy, and not sleep more than four children per room.

(1) Facilities licensed prior to July 1, 1981, having a square foot area less than that required shall be considered to meet these standards.

(2) There shall be not more than four youths per room in shelter and two youths per room in detention. Sleeping areas shall be assigned on the basis of the individual child's needs for privacy and independence of group support. For detention facilities built prior to July 1, 1979, four youths per room in detention may be allowed provided the minimum square feet per child requirement is met. When a detention facility licensed prior to July 1, 1979, remodels or makes an addition after July 1, 1979, only two youths per room shall be allowed.

c. All rooms aboveground shall:

(1) Have a ceiling height of at least 7 feet, 6 inches.

(2) Have a window area of at least 8 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

d. All rooms belowground shall:

(1) Have a ceiling height of at least 6 feet, 8 inches.

(2) Have a window area of at least 2 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

(3) Have floor and walls constructed of concrete or other materials with an impervious finish and free from groundwater leakage.

105.2(3) *Bedrooms.*

a. Each child in care shall have a solidly constructed bed.

b. Sheets, pillowcases and blankets shall be provided for each child and shall be kept clean and in good repair.

c. Each child in care shall have adequate storage space for private belongings.

d. No child over the age of five years shall occupy a bedroom with a member of the opposite sex.

105.2(4) *Heating.*

a. The heating unit shall be so located and operated as to maintain the temperature in the living quarters at a minimum of 65 degrees Fahrenheit during the day and 55 degrees Fahrenheit during the

night. Variances may be made in case of health problems. Temperature is measured at 24 inches above the floor in the middle of the room.

b. All space heaters involving the combustion of fuel, such as gas, oil or similar fuel, shall be properly vented to the outside atmosphere.

c. Neither rubber nor plastic tubing shall be used as supply lines for gas or oil heaters.

d. The heating and cooling plant shall be checked yearly and kept in a safe working condition at all times.

105.2(5) *Bathroom facilities.*

a. Bathrooms shall have an adequate supply of hot and cold running water.

b. Each bathroom shall be properly equipped with toilet tissue, towels, soap, and other items required for personal hygiene unless children are individually given such items. Paper towels, when used, and toilet tissue shall be in dispensers. Detention facilities shall provide items required for personal hygiene but shall not be required to keep items in the bathrooms.

c. Toilets and baths or showers shall provide for individual privacy.

d. There shall be a shower or tub for each ten children or portion thereof.

e. Tubs and showers shall have slip-proof surfaces.

f. At least one toilet and one lavatory shall be provided for each six children or portion thereof.

g. Toilet facilities shall be provided with natural or artificial ventilation capable of removing odors and moisture.

h. Toilet facilities adjacent to a food preparation area shall be separated completely by a windowless door that completely fills the doorframe.

i. All toilet facilities shall be kept clean.

j. When more than one stool is used in one bathroom, partitions providing privacy shall be used.

k. Toilets, wash basins, and other plumbing or sanitary facilities shall be maintained in good operating condition.

105.2(6) *Food preparation and storage.*

a. Cracked dishes and utensils shall not be used in the preparation, serving, or storage of food.

b. Storage areas for perishable foods shall be kept at 45 degrees Fahrenheit or below.

c. Storage areas for frozen food shall be kept at zero degrees Fahrenheit or below.

d. Food that is to be served hot shall be maintained at 140 degrees Fahrenheit or above.

e. Food that is to be served cold shall be maintained at 45 degrees Fahrenheit or less.

f. The kitchen and food storage areas shall be kept clean and neat. Food shall not be stored on the floor.

g. The floor and walls shall be of smooth construction and in good repair.

105.2(7) *Personnel handling food.*

a. Shall be free of infection that might be transferred while preparing or handling food.

b. Shall be clean and neatly groomed.

c. Shall wear clean clothes.

d. Shall not use tobacco in any form while preparing or serving food.

105.2(8) *Dishwashing facilities.*

a. Manual dishwashing will be allowed in facilities that normally serve 15 or less people at one meal.

b. Automatic or commercial dishwashers shall be used in facilities normally serving more than 15 people at one meal, as long as the following conditions are met:

(1) When chemicals are added for sanitation purposes, they shall be automatically dispensed.

(2) Machines using hot water for sanitizing must maintain the wash water at least 150 degrees Fahrenheit and rinse water at a temperature of at least 180 degrees Fahrenheit or a single temperature machine at 165 degrees Fahrenheit for both wash and rinse.

(3) All machines shall be thoroughly cleaned and sanitized at least once each day or more often if necessary to maintain satisfactory operating condition.

c. Soiled and clean dish table areas shall be of adequate size to accommodate the dishes for one meal.

d. All hand-held food preparation and serving equipment shall be cleaned and sanitized following each meal. Dispensers, urns and similar equipment shall be cleaned and sanitized daily.

105.2(9) *Foods not prepared at site of serving.*

a. The place where food is prepared for off-site serving shall conform with all requirements for on-site food preparation.

b. Food shall be transported in covered containers or completely wrapped or packaged so as to be protected from contamination.

c. During transportation, and until served, hot foods shall be maintained at 140 degrees Fahrenheit or above and cold food maintained at 45 degrees Fahrenheit or below.

105.2(10) *Milk supply.* When fluid milk is used, it shall be pasteurized Grade "A."

105.2(11) *Public water supply.* The water supply is approved when the water is obtained from a public water supply system.

105.2(12) *Private water supplies.*

a. Maintenance and operation. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected by a well contractor certified by the state within 30 days of discovery.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO3-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and when total arsenic levels are 10 µg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is unsafe for drinking water uses. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought back into a safe and maintained condition. The statement shall be submitted to the department within ten days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days after any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

105.2(13) *Heating or storage of hot water.* Each tank used for the heating or storage of hot water shall be provided with a pressure and temperature relief valve.

105.2(14) *Sewage treatment.*

a. Facilities shall be connected to public sewer systems where available.

b. Private disposal systems shall be designed, constructed, and maintained so that no unsanitary or nuisance conditions exist, such as surface discharge of raw or partially treated sewage or failure of the sewer lines to convey sewage properly.

105.2(15) *Garbage storage and disposal.*

a. A sufficient number of garbage and rubbish containers shall be provided to properly store all material between collections.

b. Containers shall be fly-tight, leakproof, and rodent proof and shall be maintained in a sanitary condition.

105.2(16) *General.*

a. Facilities shall take sufficient measures to ensure the safety of the children in care.

b. Stairways, halls and aisles shall be of substantial nonslippery material, shall be maintained in a good state of repair, shall be adequately lighted and shall be kept free from obstructions at all times. All stairways shall have handrails.

c. Radiators, registers and steam and hot water pipes shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.

d. Fuse boxes shall be inaccessible to children.

e. Facilities shall have written procedures for the handling and storage of hazardous materials.

f. Firearms are prohibited in shelter care and detention facilities.

g. All swimming pools shall conform to state and local health and safety regulations. Adult supervision shall be provided at all times when children are using the pool.

h. The facility shall have policies regarding fishing ponds, lakes or any bodies of water located on or near the institution grounds and accessible to the children.

105.2(17) *Emergency evacuation and safety procedures.* Upon admission, all children shall receive instruction regarding evacuation and safety procedures. All living units utilized by children shall have a posted plan for evacuation and safety procedures regarding severe weather events, fire or other natural or man-made disasters. Practice fire drills shall be held monthly, and severe weather drills shall be held twice annually.

105.2(18) *Fire inspection.* Each facility shall procure an annual fire inspection approved by the state fire marshal and shall meet the recommendations thereof.

105.2(19) *Local codes.* Each facility shall meet local building, zoning, sanitation and fire safety ordinances. Where no local standards exist, state standards shall be met.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.3(232) Personnel policies.

105.3(1) *Policies in writing.* The following personnel policies and practices of the agency relating to a specific facility shall be described in writing and accessible to staff upon request:

a. Affirmative action and equal employment opportunity policies and procedures covering the hiring, assignment and promotion of employees.

b. Job descriptions for all positions.

c. Provisions for vacations, holidays and sick leave.

d. Effective, time-limited grievance procedures allowing the aggrieved party to bring the grievance to at least one level above that party's supervisor.

e. Authorized procedures, consistent with due process for the suspension and dismissal of an employee for just cause.

f. Written procedures for annual employee evaluation shall be in place for each facility and available to all staff upon request.

105.3(2) *Health of employees.* Each staff person who has direct client contact or is involved in food preparation shall be tested for tuberculosis and have had a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. Physical examinations shall be completed at least every three years thereafter, or whenever circumstances require them more frequently. Evidence

of these examinations or tests shall be included in each personnel file. The examinations or tests shall be completed by one of the following:

a. A physician as defined in Iowa Code section 135.1(4);

b. An advanced registered nurse practitioner who is registered with and certified by the Iowa board of nursing to practice nursing in an advanced role; or

c. A physician assistant licensed under Iowa Code chapter 148C.

105.3(3) *Personnel records.* A record shall be maintained by the facility as applicable for each volunteer who has direct responsibility for a child or access to a child when the child is alone and for each employee. The record shall contain at least the following:

a. Name, address, and social security number of the volunteer or employee.

b. A job application containing sufficient information to justify the initial and current employment.

c. Verification of education and experience. Applicants for positions having educational requirements shall be permanently employed only after the facility has obtained a certified copy of the transcript, diploma, or verification from the school or supervising agency. Applicants for positions having experience requirements shall be permanently employed only after the facility has obtained verification from the agency supervising the experience.

d. Verification of license. Applicants for positions requiring licenses shall be permanently employed only after the facility has obtained written verification of their licenses. Evidence of renewal of licenses as required by the licensing agency shall be maintained in the personnel record.

e. References. At least two written references or documentation of oral references shall be contained in the volunteer's or employee's personnel record. In case of unfavorable references, there shall be documentation of further checking to ensure that the person will be a reliable volunteer or employee.

f. A written, signed and dated statement which discloses any substantiated instances of child abuse, neglect or sexual abuse committed by the volunteer or job applicant.

g. Documentation of the submission of Form 470-0643, Request for Child Abuse Information, to the central abuse registry, the registry response, the department's evaluation of any abuse record discovered, and a copy of Form 470-2310, Record Check Evaluation, if the volunteer or staff person has completed and submitted it.

h. A written, signed and dated statement furnished by the new volunteer or applicant for employment which discloses any convictions of crimes involving the mistreatment or exploitation of a child.

i. Documentation of a check with the Iowa department of public safety on all new volunteers and applicants for employment using Form 595-1396, DHS Criminal History Record Check, Form B; a copy of the department's evaluation of any criminal record discovered; and a copy of Form 470-2310, Record Check Evaluation, if the volunteer or applicant has completed and submitted it.

j. Documentation of any checks with the Iowa department of public safety for persons hired before July 1, 1983, for whom the agency has reason to suspect a criminal record.

k. Current information relative to work performance evaluation.

l. Records of preemployment health examination or a record of a health report as required in 105.3(2) as well as a written record of subsequent health services rendered to an employee as necessary to ensure that all facility employees are physically able to perform their duties.

m. Information on written current reprimands or commendations.

n. Position in the agency, and date of employment.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 9829B**, IAB 11/2/11, effective 1/1/12; **ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.4(232) Procedures manual. Rescinded **ARC 4793C**, IAB 12/4/19, effective 1/8/20.

441—105.5(232) Staff.

105.5(1) *Number of staff.*

a. Generally. A sufficient number of child care staff shall be on duty at all times so as to provide adequate coverage. The number of staff required will vary depending on the size and complexity of the program. All facilities shall have at least one staff person on duty. A minimum staff-to-child ratio of one child care worker to five children shall be maintained at all times children are awake and present in the facility and during supervised outings. All child care staff shall be at least 18 years of age.

b. On-call system. There shall be an on-call system to provide supervisory consultation. There shall be a written plan documenting this system.

c. Reserved.

d. Night hours. At night, there shall be a staff person awake in each living unit and making regular visual checks throughout the night. The visual checks shall be made at least every hour in shelter care and every half hour in detention. A log shall be kept of all checks, including the time of the check and any significant observations. The minimum staff-to-child ratio must be maintained at 1:16 during the overnight shift.

105.5(2) *Staff composition.* The composition of the program staff shall be determined by the facility, based on an assessment of the needs of the children being served, the facility's goals, the programs provided, and all applicable federal, state and local laws and regulations.

105.5(3) *Staff development.* Staff development shall be appropriate to the size and nature of the facility. There shall be a written plan for staff training that includes:

a. Orientation for all new employees, to acquaint them with the philosophy, organization, program practices, and goals of the facility.

b. Training of new employees in areas related to their job assignments.

c. Provisions in writing for all staff members to improve their competency through such means as:

(1) Attending staff meetings;

(2) Attending seminars, conferences, workshops, and institutes;

(3) Visiting other facilities;

(4) Access to consultants;

(5) Access to current literature, including books, monographs, and journals relevant to the facility's services.

d. There shall be an individual designated responsible for staff development and training, who will complete a written staff development plan which shall be updated annually.

105.5(4) *Organization and administration.* Whenever there is a change in the name of the facility, the address of the facility, the executive, or the capacity, the information shall be reported to the department. A table of organization including the identification of lines of responsibility and authority from policymaking to service to clients shall be available to the licensing staff. An executive director shall have full administrative responsibility for carrying out the policies, procedures and programs.

105.5(5) *Record checks.* Record checks are required for an entity being considered for a certificate of approval or a certificate of license or employment on a facility campus where children reside to determine whether any founded child abuse reports, convictions for crimes for the mistreatment or exploitation of children, or criminal convictions exist related to the person having been placed on a sex offender registry. The facility shall not employ or use any staff person if that person has been convicted of a crime involving the mistreatment or exploitation of a child. The facility shall not employ or use any staff person if that person has a record of a criminal conviction or founded child abuse report unless the department has evaluated the crime or abuse and determined that the crime or abuse does not merit prohibition of a certificate of approval or a certificate of license, volunteering or employment. For each person working in a shelter care home on a facility campus where children reside, fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check. Fingerprinting, for the purpose

of a national criminal history check, is required for any entity being considered for a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside.

a. If a record of criminal conviction or founded child abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation.

b. In its evaluation, the department shall consider:

(1) The nature and seriousness of the crime or founded abuse in relation to the employment or volunteer position sought;

(2) The time elapsed since the commission of the crime or founded abuse;

(3) The circumstances under which the crime or founded abuse was committed;

(4) The degree of rehabilitation; and

(5) The number of crimes or founded abuses committed by the person involved.

105.5(6) *Record check procedure.* Each entity being considered for a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside shall be checked for all of the following:

a. Records with the Iowa central abuse registry;

b. Records with the Iowa division of criminal investigation;

c. Records with the Iowa sex offender registry;

d. Records with the child abuse registry of any state where the person has lived during the past five years; and

e. Fingerprints provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check.

105.5(7) *Evaluation of record.* If the entity for whom background checks are required has a record of founded child or dependent adult abuse, a criminal conviction, or placement on a sex offender registry, the department shall complete an evaluation to determine that the abuse, criminal conviction, or placement on a sex offender registry does not warrant prohibition of a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside.

105.5(8) *Evaluation form.* The entity with the founded child or dependent adult abuse or criminal conviction report shall complete and return record check evaluation forms required by the department within ten calendar days of the date of receipt to be used to assist in the evaluation.

105.5(9) *Evaluation decision.* The department shall conduct the evaluation and issue a notice of decision in writing to the requesting entity.

[**ARC 9829B**, IAB 11/2/11, effective 1/1/12; **ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.6(232) Intake procedures.

105.6(1) *Admissions.* Admission to shelter care or detention shall be in accordance with Iowa Code sections 232.20, 232.21 and 232.22. In no case shall a youth be admitted to detention or shelter care when the resulting admission would exceed the facility's approved client capacity. The facility and referring agency shall agree upon service responsibilities at the time of admission.

105.6(2) *Agency or court order placement.* Each agency or court placing a child in a facility shall make available to the facility the following:

a. A placement agreement should accompany the child.

When this is not possible, a copy of the placement agreement shall be provided the facility within 24 hours.

b. For court-ordered placements, a copy of the court order authorizing placement shall be provided to the facility within 48 hours.

c. When the child is in the facility more than four days, the following information shall be requested by the facility if not yet received.

(1) All available psychological and psychiatric tests and reports concerning the child.

(2) Any available family social history.

(3) Any available school information.

105.6(3) *Self-referrals.* Any child admitting self to a facility shall be provided appropriate services. The facility shall notify the child's parents, guardian or the juvenile court as soon as possible concerning the child's admission to the facility but in any event the notification shall take place within 48 hours after the child's admission. Self-referrals shall not be accepted for placement in detention.

105.6(4) *Person responsible.* Each agency shall designate who has the authority to do intake. This may include anyone trained in intake procedures and who is designated to do intake.

105.6(5) *Intake sheet.* An intake sheet shall be completed on each child containing at least the information specified in 105.17(2).

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.7(232) Assessments.

105.7(1) *Personal.* At the time of intake and throughout a child's stay, individual needs will be identified by staff. The initial and ongoing determination of each child's needs will be based on written and verbal information from referral sources, observable behavior at intake, initial interview with the youth or family, school contacts, physical examination, and other relevant materials. The individual assessment shall provide the basis for development of a care plan for each youth.

105.7(2) *Educational.* An educational assessment shall be developed by the staff and referring worker for each child. When appropriate, other agencies such as the public schools and the area education agency shall be involved.

441—105.8(232) Program services.

105.8(1) *Service plan.* There shall be a written service plan developed for each resident remaining in the facility over four days and completed according to the time frames identified for the contracted service. The service plan will be based on individual needs determined through the assessment of each youth. The service plan shall be developed in consultation with child care services, probation services, social services and educational, medical, psychiatric and psychological personnel as appropriate. The plan shall include:

a. Identification of specific needs;

b. Description of planned service;

c. Which staff person(s) will be responsible for each element of the plan;

d. Where services are to occur;

e. Frequency of activities or services.

105.8(2) *Educational programs.* All children currently enrolled in a school shall continue in that school when possible, or in an appropriate alternative. Where educational assessments indicate an educational need for a child not currently enrolled in public schools, an alternative shall be developed in cooperation with public schools, area education agency, and the referring worker. When an educational program is established within the facility it shall meet the educational and teaching standards established by the state department of public instruction. A child should be compelled to participate in an educational program only in compliance with the compulsory education law, Iowa Code chapter 299.

105.8(3) *Daily program.* The daily program shall be planned to provide a consistent, well structured, yet flexible framework for daily living, and shall be periodically reviewed and revised as the needs of the individual child or the living group change.

Attention shall be given to the special nature of the facility population and its resulting stresses, for example, rapid turnover in population and minimal screening at intake.

105.8(4) *Optional services.* When a facility provides services in addition to those required by these rules, they shall be clearly defined in writing.

105.8(5) *Recreation program.* The facility shall provide adequately designed and maintained indoor and outdoor activity areas, equipment, and equipment storage facilities appropriate for the age

group which it serves. There shall be a variety of activity areas and equipment so that all children can be active participants in different types of individual and group sports and other motor activity.

a. Games, toys, equipment, and arts and crafts materials shall be selected according to age, number of children, and with consideration of the needs of children to engage in both active and quiet play. All materials shall be of a quality to ensure safety and shall be of a type which allows imaginative play and creativeness.

b. Shelter care homes shall plan and carry out efforts to establish and maintain workable relationships with the community recreational resources. The facility staff shall enlist the support of these resources to provide opportunities for children to participate in community recreational activities.

105.8(6) *Health care.*

a. Health assessment at intake. Facility staff shall review each child's health status at intake. The purpose of this preliminary review is to identify medication needs and problems that need immediate medical attention. Within seven days of intake, all reasonable efforts shall be made to perform a more comprehensive health assessment on each child who has not had a comprehensive health assessment within the past year. If the assessment cannot be performed within seven days, it shall be arranged for the earliest possible time, and the reasons for the delay shall be documented. A registered nurse, an advanced registered nurse practitioner, a physician assistant, or a physician shall perform the comprehensive health assessment.

b. Existing health needs. Facilities shall provide or secure medical treatment for a child's illnesses and injuries that come to the facility's attention during the child's stay.

c. Monitoring side effects of medications. Facilities shall monitor each child's use of medications and shall inform the authorized prescriber if adverse reactions are noted.

d. Sharing medical information. Facilities shall share information about significant changes in medical status with the child's caseworker and parents or guardian. Discharge information shall include information about significant medical changes that occurred while the child was at the facility.

105.8(7) *Counseling program.* Counseling services shall be related to the immediate problem, daily living skills, peer relationships, educational opportunities, vocational opportunities, future planning and preparation for placement, family counseling, and any other factors identified in the individual care plan. Counseling shall be done by appropriate staff personnel.

105.8(8) *Dietary program.* The facility shall provide properly planned, nutritious and inviting food and take into consideration the dietary and health needs of children. The facility shall follow all dietary recommendations prescribed by medical personnel or a dietitian licensed in the state of Iowa.

105.8(9) *Liability.* Juvenile shelter care homes that apply the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

105.8(10) *Safety, protection, and well-being of children in care.* Facilities shall develop and follow written policies that assure the safety, protection, and well-being of children in care. Policies shall address, but not be limited to, the following:

a. Supportive leadership of the facility that promotes protecting each child from abuse or bullying from other children and staff.

b. Defining the facility's culture to reduce the use of unnecessary restraint.

c. Clear definitions of unsafe behavior and the emergency situations when it is appropriate to use physical interventions.

d. Staff training and development that give staff confidence that they are supported by leadership with proper supervision and ongoing access to information about best practices and evidence-based approaches to care.

e. Adequate supervision of children while the children are using any hazardous or dangerous objects or equipment and when children are using the Internet or other social media.

f. The social, cultural, and developmental needs of children in care.

g. Defining protective locked environment and how it is utilized to provide safety and security for children.

105.8(11) *Staff duties.* The staff duties shall include, but not be limited to, the following:

a. Providing a supportive atmosphere for each child.

b. Providing for coordination of internal and external activities of each child as needed.

c. Providing leadership and guidance to each child as needed.

d. Being responsible for overseeing and maintaining the general health and well-being of each child.

e. Supervising all living activities.

f. At all times, knowing where the children are and where they are supposed to be to ensure ongoing safety.

g. Providing for a liaison with the referring agency.

h. Monitoring and recording behavior on a daily basis.

105.8(12) *Volunteers.* A facility that utilizes volunteers to work directly with a particular child or group of children shall have a written plan for using volunteers. This plan shall be given to all volunteers. The plan shall indicate that all volunteers shall:

a. Be directly supervised by a paid staff member.

b. Be oriented and trained in the philosophy of the facility and the needs of children in care and methods of meeting those needs.

c. Be subject to character, reference, and record check requirements as described in this chapter.

[**ARC 2743C**, IAB 10/12/16, effective 12/1/16; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—105.9(232) Medication management and administration. The facility shall have and follow written policies and procedures governing the methods of handling prescription drugs and over-the-counter drugs within the facility. No prescription or narcotic drugs are allowed in the facility without the authorization of a licensed physician or other prescriber authorized by law. Only drugs which have been approved by the federal Food and Drug Administration for use in the United States may be used. No experimental drugs may be used.

105.9(1) *Obtaining prescription medications.* Facilities shall permit prescription medications to be brought into the facility for a child.

a. Prescription medication in its original container, clearly labeled and prescribed for the child, may be accepted as legitimate prescription medication for the child. The label serves as verification that the medication was ordered by an authorized prescriber. Medication shall be prescribed by a provider authorized to prescribe the medication. Medication provided to residents shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Iowa Code, from a licensed pharmacy in another state according to the laws of that state, or by a licensed physician.

b. Facilities shall review size, shape, color, and dosages and contact the identified pharmacy or authorized prescriber to confirm legitimacy if contraband is suspected.

105.9(2) *Obtaining nonprescription medications.* Shelter and detention facilities shall maintain a supply of standard nonprescription medications for use for children residing at the facility. Examples of standard nonprescription medications include cough drops and cough syrups, aspirin substitutes and other pain control medication, poison antidote, and diarrhea control medication.

a. All nonprescription medications kept on the premises for the use of residents shall be preapproved annually by a licensed pharmacist or an authorized prescriber.

b. Facilities shall maintain a list of all preapproved nonprescription medications. The list shall indicate standard uses, standard dosages, contraindications, side effects, and common drug interaction warnings. The facility administrator or the administrator's designee shall be responsible for determining the scope of the list and brands and types of medications included.

c. Only nonprescription medications on the preapproved list shall be available for use. However, the facility administrator or the administrator's designee, in consultation with an authorized prescriber or licensed pharmacist, may approve use of a nonprescription medication that is not on the preapproved list for a specific child.

105.9(3) *Storing medications.* Prescription and nonprescription medications shall be stored in a locked cabinet, a locked refrigerator, or a locked box within an unlocked refrigerator.

a. Schedule II medications shall be stored in a locked box within a locked cabinet. Nothing other than Schedule II medications shall be stored in the locked box. Schedule II medications requiring refrigeration also shall be maintained within a double-locked container separate from food and other items.

b. The facility administrator shall determine distribution and maintenance of keys or other access to the medication storage cabinets and boxes.

c. A shelter facility administrator or the administrator's designee may preapprove shelter staff to carry prescription or nonprescription medications with them temporarily for use at sites away from the facility.

105.9(4) *Labeling medications.* Schedule II medications and prescription medications shall be maintained in their original containers, clearly labeled by an authorized prescriber and prescribed for the child. Sample prescription medications shall be accompanied by a written prescription. Nonprescription medications shall be maintained as purchased in their original containers.

105.9(5) *Administering Schedule II medications.* Only staff who have completed a medication management course shall be allowed to administer Schedule II medications.

105.9(6) *Administering prescription and nonprescription medications.* The facility administrator shall determine and provide written authority as to which staff may administer prescription and nonprescription medications.

a. Prescription medications shall be administered only in accordance with the orders of the authorized prescriber. Nonprescription medications shall be administered by following the directions on the label.

b. The facility administrator or the administrator's designee may allow a child to self-administer prescription medication with written authorization by the authorized prescriber. The facility shall have written policies relating to self-administration of prescription and nonprescription medication. The facility shall require documentation if the child self-administers a medication.

105.9(7) *Documenting errors in administering medications.* All errors in administering prescription and nonprescription medications shall be documented. Facilities shall review and take appropriate action to ensure that similar errors do not recur.

105.9(8) *Medication for discharged residents.* When a child is discharged or leaves the facility, the facility shall turn over to a responsible agent Schedule II medications and prescription medications currently being administered. The facility may send nonprescription medications with the child as needed. The facility shall document in the child's file:

a. The name, strength, dosage form, and quantity of each medication.

b. The signature of the facility staff person turning over the medications to the responsible agent.

c. The signature of the responsible agent receiving the medications.

105.9(9) *Destroying outdated and unused medications.* Unused Schedule II medications and prescription medications may not be kept at the facility for more than 15 days after the child has left the facility and the Schedule II medications and prescription medications shall be destroyed by the administrator or the administrator's designee in the presence of at least one witness. Outdated, discontinued, or unusable nonprescription medications shall also be destroyed in a similar manner. The person destroying the medication shall document:

a. The child's name.

b. The name, strength, dosage form, and quantity of each medication.

c. The date the medication was destroyed.

d. The names and signatures of the witness and staff person who destroyed the medication.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.10(232) Control room—juvenile detention home only.

105.10(1) *Written policies.* When a juvenile detention facility uses a control room as part of its service, the facility shall have written policies regarding its use and the facility director shall complete Form 470-0700, Evaluation and Recommendation to Operate a Control Room. The policy shall:

a. Specify the behaviors resulting in control room placement.

b. Delineate the staff members who may authorize its use as well as procedures for notification of supervisory personnel.

c. Document in writing behaviors leading to control room placement and the nature of the agreement reached with the child that will allow the child to return to the living unit.

105.10(2) *Physical requirements.* The control room shall be designed to ensure a physically safe environment that:

a. Has all switches controlling lights and ventilation outside of the room.

b. Allows for total observation of the child at all times.

c. Has protected recessed ceiling light.

d. Has no electrical outlets in the room.

e. Is properly heated, cooled and ventilated.

f. Has all doors, ceilings and walls constructed of strength and materials as to prevent damage to the extent that no harm could come to the child.

g. When a window is present, it is secured and protected in such a manner as to prevent harm to the child.

h. Is a minimum of 6 feet by 9 feet in size with at least a 7½ foot ceiling.

105.10(3) *Use.* A control room shall be used only when a less restrictive alternative to quiet or allow the child to gain control has failed. Utilization of the control room shall be in accordance with the following policies:

a. No more than one child shall be in the control room at any time.

b. There shall be provision for visual observation of the child at all times, regardless of the child's position in the room.

c. The control room should be checked thoroughly for safety and the absence of contraband prior to placing a child in the room.

d. The child shall be thoroughly checked before placement in the control room and all potentially injurious objects removed from such child including shoes, belts, pocket items, and similar items. The staff member placing the child in the control room shall document such check.

e. In no case shall all clothing or underwear be removed and the child shall be provided sufficient clothing to meet seasonal needs.

f. A staff member shall always be positioned outside of the control room. Visual and auditory observations of the child's behavior and condition shall be recorded at five-minute intervals, and a complete written report shall be documented in the child's file by the end of the staff person's work shift.

g. The child shall not remain in the control room longer than 1 hour except in consultation with and approval from the supervisor. Documentation in the child's case record shall include the time in the control room, the reasons for the control, and the reasons for the extension of time. Use of the control room for a total of more than 12 hours in any 24-hour period shall occur only in consultation with the referring agency or court. In no case shall a child be in a control room for a period longer than 24 hours.

h. The child's parents, referring worker, and the child's attorney shall be notified when the control room is used for more than a total of 30 minutes in any 24-hour period.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.11(232) Clothing. All children shall have clothing that is suited to existing climate and seasonal conditions and is clean, dry and in good repair.

441—105.12(232) Staffings. The staff shall be available to participate in staffings or upon request to provide a written summary of the child's progress and behavior while in the facility program. Written recommendations regarding future planning and placement shall be provided to the referring agency or court upon request. Staff shall be available to discuss recommendations with the child's parent or guardian.

441—105.13(232) Child abuse. Written policies shall prohibit mistreatment, neglect or abuse of children and specify reporting and enforcement procedures for the facility. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Any employee for whom there is a substantiated instance of child abuse or failure to report child abuse shall be subject to the agency's policies concerning dismissal.

441—105.14(232) Daily log. The facility shall maintain a daily log to generally record noteworthy occurrences regarding the children in care. Problem areas or unusual behavior for specific children shall be recorded in individual children's records.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.15(232) Children's rights.

105.15(1) *Policies in writing.* All policies and procedures covered in this rule shall be in writing and provided to the child upon admission and made available to the child's parent or guardian upon request. If the child remains in care over four days, the policies and procedures shall be provided to the parent or guardian. The rationale and circumstances of any deviation from these policies shall be discussed with the child's parents or guardian and the referring worker, documented, and placed in the child's case record.

105.15(2) *Confidentiality.* Information regarding children and their families shall be kept confidential and released only with proper written authorization.

105.15(3) *Communication.*

a. Unless specifically regulated by the court, visitation shall be allowed with members of the child's immediate family.

b. Family visits shall be monitored only to the extent necessary to ensure the child's safety and facility security. Rationale for monitoring shall be documented in the child's record.

c. The child shall be permitted to communicate privately with legal counsel and the referring worker.

d. The child shall be allowed to conduct telephone conversations with family members. Telephone calls shall be monitored only to the extent necessary to ensure the child's well-being and facility security. Rationale for monitoring a child's conversation shall be documented in the child's record. Incoming calls may be screened by staff to verify the identity of the caller before approval is given.

e. The staff shall not open or read residents' mail. The child shall be allowed to send and receive mail. The facility may require the child to open incoming mail in the presence of a staff member when the mail is suspected to contain contraband articles, or to contain money that should be receipted and deposited.

f. When limitations on visitation or other communications are indicated, they shall be determined with the participation or knowledge of the child, family or guardian, and the referring worker. All restrictions shall have specific bases which shall be made explicit to the child and family and documented in the child's case record.

105.15(4) *Privacy.* Reasonable provisions shall be made for the privacy of residents.

441—105.16(232) Discipline.

105.16(1) *Generally.* A facility shall have written policies regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Discipline shall not include withholding of basic necessities such as food, clothing, or sleep. Discipline shall not be used for anyone other than a child whose actions resulted in consequences. Group discipline shall not be used because of actions of an individual child or other children. Agency staff shall be in control of and responsible for discipline at all times.

105.16(2) *Corporal punishment prohibited.* The facility shall have a policy that clearly prohibits staff or the children from utilizing corporal punishment as a method of disciplining or correcting children. This policy shall be communicated in writing to all staff of the facility.

105.16(3) *Physical restraint.* The use of physical restraint shall be employed only to prevent the child from injury to self, to others, or to property. Physical restraint must be conducted with the child in a standing position whenever possible.

a. No staff person shall use any restraint that obstructs the airway of a child.

b. Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.

c. If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have the child's hands free of restraint for brief periods unless the staff person determines that such freedom appears likely to result in harm to the child, others, or property.

d. The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly set forth in the child's record by the responsible staff persons.

e. A child known to be pregnant may not be restrained during labor, delivery, and postpartum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others.

f. A facility may not use abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on a known pregnant child, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others or reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

105.16(4) *Room confinement—juvenile detention home only.* A juvenile detention home may confine a child to the child's room during normal sleeping hours or for disciplinary reasons if the facility has written policies and procedures that include, but are not limited to, the reasons for and time limitations of the confinement.

105.16(5) *Time out—juvenile shelter care home only.*

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room, or in the area of activity of other residents.

c. Staff must monitor the resident while the resident is in time out.

105.16(6) *Written policies.* The facility shall provide to the child written policies specifying inappropriate behaviors, reasonable consequences for misconduct, and due process procedures available to the child. Upon request, the above information shall be provided to the child's parent or guardian and referring worker.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.17(232) Case files.

105.17(1) *Generally.* For the purpose of promoting a uniformity of program for all facilities and as an aid to the department of human services in determining its approval of a facility all facilities shall establish and maintain for inspection case files on each child.

105.17(2) *Face sheet.* For all children, a face sheet containing the following information shall be completed.

a. Full name, current address, and date of birth.

b. Parent's(s') full name(s).

c. Parent's(s') address and telephone number.

d. Religious preference of the child and also parent, if available.

e. Statement of who has legal custody and guardianship.

f. Name of referring worker and agency making the referral.

g. Telephone number and address of referring agency or court.

h. Name, address, and telephone number of the child's attorney.

105.17(3) *Written summary.* When a written summary has been requested under 441—105.12(232), a copy shall be placed in the child's record.

105.17(4) *Documentation.* The following information shall be documented in each child's record:

a. Appropriate notes on all significant contacts by staff with parents, referral person and other collateral contacts.

b. A summary related to discharge from the facility including:

(1) The name, address, and relationship of the person or agency to whom the child was discharged.

(2) The discharge summary (as included in the service plan).

(3) Final disposition of a child's medications as applicable.

(4) Identification of who transported the child and destination postdischarge.

105.17(5) *Other information.* The following information shall be requested when the child remains in the facility more than four days and, when available, shall be placed in the child's record.

a. Current family history or social history.

b. Case plans submitted by the referring agency or orders of the court.

c. Psychological and psychiatric records; copies of all available testing performed plus notes and records of contact with the child.

d. Medical.

(1) A record of all illnesses, immunizations, communicable diseases and follow-up treatment.

(2) Medical and surgical releases or authorizations signed by the parent, guardian, custodian or court, including releases or authorizations for anesthesia and emergency medical and surgical treatment.

(3) A record of all medical and dental examinations, including findings.

(4) Date of last physical examination prior to placement.

e. School.

(1) Name and address of school attended.

(2) Grade placement.

(3) Current school in which child is enrolled.

(4) Specific educational problems.

(5) Remedial action.

f. Placement agreement, court order, and other releases and authorizations.

(1) An agreement authorizing the facility to accept the child.

(2) An agreement setting forth the terms of payment for care.

(3) Other releases and authorizations applicable to the placement.

(4) All court orders affecting the custody or guardianship of the child.

[**ARC 2743C**, IAB 10/12/16, effective 12/1/16; **ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.18(232) Discharge. Children in shelter care should be discharged to, preferably, a permanent placement, or, alternatively, a lower level of care in a familylike setting, at the earliest possible time, preferably within 14 days. The facility shall collaborate with referral workers to assess

each child's need for ongoing placement, and the reasons for longer stays shall be documented in the child's case file. Children in detention shall be discharged as determined by the court.
[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.19(232) Approval. The department will issue a Certificate of Approval or a certificate of license annually without cost to any juvenile detention home or juvenile shelter care home which meets the standards. The department may offer consultation to assist homes in meeting the standards.

105.19(1) *Applications.* An application shall be submitted on Form 470-0723, Application for License or Certificate of Approval. The application shall be signed by the operator of the home, chairman of the county board of supervisors, or chairman of the multicounty board of directors and shall indicate the type of home for which the application is made.

a. The withdrawal of an application shall be reported promptly to the department.

b. Each application will be evaluated by the department to ensure that all standards are met.

c. Reports and information shall be furnished to the department as requested.

105.19(2) *Rejection.*

a. Applications will be rejected when the minimum standards set forth in the rules in this chapter are not met.

b. Fraudulent applications will be rejected. A fraudulent application is one which contains false statements knowingly made by the applicant or one in which the applicant knowingly conceals information.

c. Applications will be rejected when the director of the facility has been convicted of a crime indicating an inability to operate a children's facility or care for children.

d. Applications will be rejected for just cause.

105.19(3) *Approval.* Approvals will be given for one year.

105.19(4) *Notification.* Homes should be notified of approval or rejection within 120 days of application unless the applicant requests and is granted an extension by the department. Form 470-0728, Notice of Action, will be used to inform applicants of approval, and a restricted certified letter will be used to inform applicants of rejection.

105.19(5) *Renewals.*

a. Applications for renewal shall be made on forms provided by the department and shall be made at least 30 days, but no more than 90 days, prior to expiration of the approval.

b. Each application for renewal will be evaluated by the department to ensure that standards continue to be met.

c. The application for renewal will be rejected or approved in the same manner as an application.

d. Decisions on renewals should be made within 60 days from the application for renewal. Notification of renewal decisions shall be the same as for new applications.

105.19(6) *Revocations.*

a. Approval shall be revoked by the state director for the following reasons:

(1) When the facility violates laws governing the provision of services or rules contained in this chapter.

(2) When the facility is misusing funds furnished by the department.

(3) When the facility is operating without due regard to the health, sanitation, hygiene, comfort, or well-being of the children in the facility.

(4) When the director has been convicted of a crime indicating an inability to operate a children's facility or care for children.

b. The following may be causes for revocation:

(1) Substantiated child abuse.

(2) When the facility staff has been convicted of a crime indicating an inability to operate a children's facility or care for children.

105.19(7) *Certificate of approval or certificate of license.* Upon approval, county or multicounty homes will be issued a certificate of approval and private juvenile detention and shelter care homes will be issued a certificate of license containing the name of the home, address, capacity, and the date of expiration. Renewals will be shown by a seal bearing the new date of expiration, unless a change requires a new certificate to be issued.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.20(232) Provisional approval.

105.20(1) *Required conditions.* The administrator may issue a provisional license for not more than one year when a facility does not meet the requirements of this chapter and the facility submits a written corrective action plan that is approved by the administrator to bring the facility into compliance with the applicable requirements.

105.20(2) *Written report.* The department or the department's designee will provide a report identifying the reasons for the provisional license and the standards that have not been met.

105.20(3) *Corrective action.* The director of the facility, chairperson of the county board of supervisors, or chairperson of the multicounty board of directors shall provide the department with a written plan of action that is approved by the department for correcting the deficiencies to bring the facility into compliance with the applicable requirements. The plan shall give specific dates by which the corrective action will be completed.

105.20(4) *Completed corrective action.* When the corrective action is completed on or before the date specified, a full approval shall be issued.

105.20(5) *Uncompleted corrective action.* When the corrective action is not completed by the date specified on a provisional approval, the department shall not grant a full approval and has the option of rejecting or extending the provisional approval. An extension of a provisional approval shall not cause the effective period of a provisional approval to exceed 18 months. If the corrective action plan is not completed within 18 months, the approval shall be rejected.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.21(232) Mechanical restraint—juvenile detention only. When a juvenile detention facility uses mechanical restraints as part of its program, the facility shall have written policies regarding their use. These policies shall be approved by the department before use of mechanical restraints. The policies shall be available to clients, parents or guardians, and referral sources at the time of admission. Policies shall also be available to staff. The executive director of the detention home shall sign the commitment contained in Form 470-0703, Evaluation and Recommendation for Approval to Use Mechanical Restraint, before the facility shall be approved to use a mechanical restraint.

105.21(1) *Restrictions on mechanical restraints.*

a. Mechanical restraints shall not inflict physical injury.

b. Each use of mechanical restraint shall be authorized by the executive director of the facility, as discussed in 105.5(4), or other staff designated by the executive director if those staff meet one of the following requirements:

(1) Have a bachelor's degree in social work, psychology or a related behavioral science and one year of supervised experience in a juvenile shelter care, detention or foster group care facility.

(2) Have five years of supervised experience in a juvenile shelter care, detention or foster group care facility.

(3) Have some combination of advanced education in related behavioral sciences and supervised experience in a juvenile shelter care, detention or foster group care facility equal to five years. The facility shall have a written listing of all staff designated and qualified to authorize the use of mechanical restraint.

c. When immediate restraint is necessary to protect the safety of the child, other residents of the facility, staff or others, mechanical restraint may be utilized without prior authorization but in each case a person designated to provide authorization shall be contacted as soon as the child is

restrained. The designated person shall visit the resident before determining if continued use of the mechanical restraint is necessary. If not viewed as necessary, the child shall be immediately released from restraint.

d. Except for mechanical restraint of a child by the staff of a juvenile detention facility for the amount of time needed while that child is being transported to a point outside the facility and as necessary when there is a serious risk of the child exiting a vehicle while the vehicle is in motion or otherwise absconding, each authorization of mechanical restraint shall not exceed 1 hour in duration without a visit by and written authorization from a licensed psychologist, psychiatrist or physician .

e. No child shall be kept in mechanical restraint for more than 1 hour in a 12-hour period without a visit by and written authorization from a licensed psychologist, psychiatrist or physician.

f. Anytime that a child is placed in mechanical restraint, a staff person shall be assigned to monitor the child with no duties other than to ensure that the child's physical needs are properly met. The staff person shall remain in continuous auditory and visual contact with the child.

g. Each child shall be released from mechanical restraint as soon as the restraints are no longer needed.

105.21(2) *Documentation.*

a. Each use of mechanical restraints shall be documented in the client's record and shall include at least the following:

(1) The date and time the child was placed in mechanical restraint.

(2) The type of mechanical restraint utilized.

(3) The reason for the restraint.

(4) The signature of the person authorizing the restraint and the time of authorization.

(5) The signature of the person placing the child in restraint.

(6) The signature of the person providing the continuous auditory and visual contact with the child.

(7) The signature of the person releasing the child and the time of release.

b. Each use of mechanical restraint shall be documented in a separate file which is used only for the recording of uses of mechanical restraints and shall contain the name of the child restrained and the information discussed in 105.21(2)*"a."*

c. Each facility authorized to use mechanical restraint shall submit a quarterly report, which shall include all the information required in paragraph 105.21(2)*"b,"* to its licensing manager.

105.21(3) *Continued use of mechanical restraints.* When a child requires mechanical restraint on more than four occasions during any 30-day period, the facility shall hold an immediate emergency meeting within 3 days of the fifth incident and shall have a licensed psychologist or psychiatrist or psychologist employed by a local mental health center present at the staffing to discuss the appropriateness of the child's continued placement at the facility.

105.21(4) *In transporting children.* Seat belts are not considered mechanical restraints. Agency policies should encourage the use of seat belts and comply with Iowa law while transporting children.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—105.22(232) Chemical restraint. Chemical restraint shall not be utilized in juvenile shelter care or detention facilities. Each juvenile shelter care or detention facility shall have written policies which clearly prohibit the use of chemical restraints.

441—105.23(232) Mandatory reporting of child abuse and training.

105.23(1) *Mandatory reporters.* All defined in Iowa Code section 232.69 who, in the scope of professional practice or in their employment responsibilities, examine, attend, counsel, or treat a child and reasonably believe a child has suffered abuse shall make a report in accordance with Iowa Code section 232.69 whenever the provider reasonably believes a child for whom the provider is providing foster care has suffered abuse.

105.23(2) *Required training.* Mandatory reporters shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

105.23(3) *Training documentation.* Each licensee shall develop and maintain a written record for each mandatory reporter in order to document the content and amount of training.

This rule is intended to implement Iowa Code section 232.69.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

These rules are intended to implement Iowa Code section 232.142 as amended by 2011 Iowa Acts, Senate File 482, section 7.

[Filed December 19, 1962; amended December 20, 1962]
[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]
[Filed 1/23/80, Notice 5/30/79—published 2/20/80, effective 3/26/80]
[Filed 6/4/80, Notice 4/2/80—published 6/25/80, effective 7/30/80]
[Filed 10/23/80, Notice 7/23/80—published 11/12/80, effective 12/17/80]
[Filed 12/19/80, Notice 10/15/80—published 1/7/81, effective 2/11/81]
[Filed 2/26/82, Notice 10/28/81—published 3/17/82, effective 5/1/82]
[Filed 7/29/83, Notice 5/25/83—published 8/17/83, effective 10/1/83]
[Filed 1/22/86, Notice 12/4/85—published 2/12/86, effective 4/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 3/11/04, Notice 1/21/04—published 3/31/04, effective 5/5/04]
[Filed ARC 9488B (Notice ARC 9368B, IAB 2/9/11), IAB 5/4/11, effective 7/1/11]
[Filed ARC 9829B (Notice ARC 9687B, IAB 8/24/11), IAB 11/2/11, effective 1/1/12]
[Filed ARC 2743C (Notice ARC 2652C, IAB 8/3/16), IAB 10/12/16, effective 12/1/16]
[Filed ARC 4793C (Notice ARC 4629C, IAB 8/28/19), IAB 12/4/19, effective 1/8/20]
[Filed ARC 0109D (Notice ARC 9845C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTER 106
CERTIFICATION STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

PREAMBLE

It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians. Therefore, the intent of this chapter is to establish certification standards for facilities that meet the definition of "children's residential facility" pursuant to Iowa Code chapter 237C. Iowa Code chapter 237C requires the department to establish standards that shall, at a minimum, address the basic health and educational needs of children; protection of children from mistreatment, abuse, and neglect; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergency; and the physical premises on which care is provided by a children's residential facility.

Iowa Code chapter 237C specifies that the standards established by the department shall not regulate religious education curricula at children's residential facilities.

These rules cover definitions, application of the standards, the certification process, and provisions to address basic needs; educational programs and services; protection of children from mistreatment, abuse, and neglect; discipline; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergencies; the physical premises where care is provided by a children's residential facility; sanitation, water, and waste disposal; staffing; and reports and inspections.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.1(237C) Definitions.

"Administrator" means the administrator of that division of the department designated by the director of human services to administer this chapter or the administrator's designee.

"Agency," unless otherwise provided by law, means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity which provides care as a children's residential facility.

"Chemical restraint" means the use of chemical agents, including psychotropic drugs, as a form of restraint.

"Child" or *"children"* means an individual or individuals less than 18 years of age.

"Children's residential facility" means a private facility designed to serve children who have been voluntarily placed for reasons other than an exclusively recreational activity outside of their home by a parent or legal guardian and who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, that provides 24-hour care, including food, lodging, supervision, education, or other care on a full-time basis by a person other than a relative or guardian of the child, but does not include an entity providing any of the following:

1. Care furnished by an individual who receives the child of a personal friend as an occasional and personal guest in the individual's home, free of charge and not as a business.
2. Care furnished by an individual with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.
3. Child care furnished by a child care facility as defined in Iowa Code section 237A.1.
4. Care furnished in a hospital licensed under Iowa Code chapter 135B or care furnished in a health care facility as defined in Iowa Code section 135C.1.
5. Care furnished by a juvenile detention home or juvenile shelter care home approved under Iowa Code section 232.142.
6. Care furnished by a child foster care facility licensed under Iowa Code chapter 237.
7. Care furnished by an institution listed in Iowa Code section 218.1.

8. Care furnished by a facility licensed under Iowa Code chapter 125.

9. Care furnished by a psychiatric medical institution for children licensed under Iowa Code chapter 135H.

"Control room" means a locked room used for treatment purposes.

"Department" means the Iowa department of human services.

"Mechanical restraint" means restriction of a child's mobility or ability to use the child's hands, arms, or legs by the use of a mechanical device.

"Physical restraint" means direct physical contact required on the part of a staff member to prevent a child from hurting self, others, or property.

"Prone restraint" means a physical restraint in which a child is held face down on the floor.

"Protective locked environment" means the same as defined in Iowa Code section 237.1(17).

"Staff" means any person providing care or services to or on behalf of the facility whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—106.2(237C) Application of the standards. These rules shall apply to all facilities that meet the definition of "children's residential facility" pursuant to Iowa Code chapter 237C. In the event that a children's residential facility is also subject to licensure, certification, registration, or regulation pursuant to another provision of law, those legal requirements shall take precedence over these rules.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.3(237C) Application for a certificate of approval. A person shall not operate a children's residential facility without a certificate of approval to operate issued by the administrator.

106.3(1) *Right to apply.*

a. Any adult individual or agency may apply for a certificate of approval.

b. Parties wishing to apply for certification as a children's residential facility shall contact the department using the department's website or by contacting the Iowa Department of Human Services, Division of Adult, Children and Family Services, Attn: children's residential facility certification, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

106.3(2) *Application.* An applicant shall complete Form 470-0723, Application for License or Certificate of Approval.

106.3(3) *Withdrawal of an application.* The applicant shall report the withdrawal of an application promptly to the department.

106.3(4) *Evaluation of the application.* Each application will be evaluated by the department to ensure that all standards are met.

a. Before it results in adverse action, a founded abuse report on a director, a sole proprietor involved in the facility's operation, or any facility staff shall be evaluated by the department to determine if the abuse merits prohibition of employment, volunteer work, or certification.

b. The department shall evaluate all founded child abuse on a case-by-case basis. Considerations shall include, but not be limited to:

(1) The applicant's or certified entity's response (e.g., immediate termination of involved staff).

(2) Whether the abuse was an isolated incident or is symptomatic of a broader, systemic problem.

106.3(5) *Reports and information.* The applicant shall furnish requested reports and information relevant to the certification determination to the department.

106.3(6) *Applications for renewal of certificate of approval.*

a. The department or its agent shall send the certificate of approval holder an application for renewal 90 days before the certificate expires. Applications for certificate renewal shall be made on the form specified in subrule 106.3(2).

b. Applications for certificate renewal shall be made at least 30 days but no more than 90 days before the certificate of approval expires. Applications for renewal of a children's residential facility certificate of approval shall be submitted to the address listed in paragraph 106.3(1)*"b."*

106.3(7) *Notification.* The department shall notify a children's residential facility of approval or denial of a certificate within 90 days of the department's receipt of complete application or reapplication information.

106.3(8) *Fire inspection.*

a. Before the administrator issues or reissues a certificate of approval to a children's residential facility, the facility shall comply with standards adopted by the state fire marshal under Iowa Code chapter 100.

b. Each children's residential facility shall procure an annual fire inspection approved by the state fire marshal and shall meet the recommendations thereof.

c. In the case of a conflict between rules and standards adopted pursuant to this chapter and local rules and standards, the more stringent requirement applies.

This rule is intended to implement Iowa Code sections 237C.4 and 237C.6.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.4(237C) Certificate of approval.

106.4(1) A new certificate of approval shall be obtained when the certified location moves or the facility is remodeled.

106.4(2) The certificate of approval shall state on its face the name of the holder of the certificate, the particular premises for which the certificate is issued, and the number of children who may be cared for by the children's residential facility on the premises at one time under the certificate of occupancy issued by the state fire marshal or the state fire marshal's designee. The certificate of approval shall be posted in a conspicuous place in the children's residential facility.

106.4(3) A children's residential facility shall operate only in a building or on premises designated in the certificate of approval.

106.4(4) A new certificate of approval shall be requested when the children's residential facility wishes to be certified for a different number of children.

106.4(5) The department shall issue Form 470-0620, Certificate of Approval, without cost to any children's residential facility that meets the standards. The department may offer consultation to assist applicants in meeting the standards.

106.4(6) Children's residential facilities shall be certified for a term of one year.

This rule is intended to implement Iowa Code sections 237C.6 and 237C.7.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.5(237C) Denial, suspension, or revocation.

106.5(1) The administrator may deny an application for issuance or reissuance of a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. The applicant or any person residing in the children's residential facility or any facility staff has a record of founded child abuse unless an evaluation of the founded abuse has been made by the department which concludes that the abuse does not merit prohibition of employment, volunteer work, or certification.

106.5(2) The administrator may suspend a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. A children's residential facility's failure to meet the certification requirements poses a danger to the health, safety, or well-being of the children being served.

c. A children's residential facility fails to comply with Iowa Code section 282.34.

106.5(3) All operations of a children's residential facility shall cease during a period of suspension or revocation of a certificate of approval, including during an appeal. A suspension of a certificate of approval shall not extend beyond six months, and the existence of the condition requiring suspension shall be corrected within six months and documented in the record of the holder of the certificate of approval.

106.5(4) Effective period of suspension. A suspension shall be effective on the date the notice is received by the holder of the certificate of approval and shall remain in effect until one of the following occurs:

a. The department withdraws the suspension due to a change in conditions in the children's residential facility.

b. The court orders the certificate of approval reinstated.

c. The action is reversed by a final decision in accordance with 441—Chapter 7.

d. The certification period expires.

106.5(5) Method and content of notice. The notice of suspension shall be sent by restricted certified mail or personal service and shall include the following:

a. The condition requiring the suspension.

b. The specific law or rule violated.

106.5(6) The administrator may revoke a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. The conditions requiring suspension are not corrected within six months.

c. A children's residential facility fails to comply with Iowa Code section 282.34.

106.5(7) Right to appeal suspension or revocation. The holder of the certificate of approval has the right to appeal a suspension or revocation of the certificate of approval, but initiation of an appeal does not alter the suspension or revocation. Notices of adverse actions and the right to appeal shall be given to applicants and certificate of approval holders in accordance with 441—Chapter 7 and rule 441—16.3(17A).

106.5(8) Corrective action. The facility shall furnish the department with a plan of action to correct deficiencies that resulted in the suspension or revocation of a certificate of approval. The plan shall give specific dates upon which the corrective action will be completed.

This rule is intended to implement Iowa Code section 237C.6.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17; **ARC 4973C**, IAB 3/11/20, effective 4/15/20]

441—106.6(237C) Providing for basic needs.

106.6(1) A children's residential facility shall provide the following for children in its care:

a. Adequate shelter.

b. Nourishing food and water.

c. Opportunities for adequate sleep, exercise, cleanliness, and health maintenance.

106.6(2) A children's residential facility shares responsibility for meeting these basic needs with the children's parents, guardians, or other primary caretakers.

106.6(3) A children's residential facility shall have written policies related to:

a. Children's communication with their parents or guardians.

b. Children's ability to receive visitors who have been approved by their parents or guardians.

c. Confidentiality and reasonable privacy for children. The children's residential facility shall afford children and their families privacy and confidentiality unless doing so would jeopardize a child's health or safety.

d. Children's ability to keep personal belongings such as clothing, pictures, and other items.

e. Children's ability to participate in normal community activities.

106.6(4) A children's residential facility shall not impose rules and restrictions that prevent communication with parents, guardians, other family members, or others.

106.6(5) A children's residential facility shall share its written policies related to communication, visitors, personal belongings, and participation in community activities with a child's parents or guardians before a child is admitted to the children's residential facility.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.7(237C) Educational programs and services. A children's residential facility operating under a certificate of approval issued under Iowa Code chapter 237C shall comply with rules adopted by the state board of education pursuant to Iowa Code section 282.34.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.8(237C) Protection from mistreatment, physical abuse, sexual abuse, and neglect.

106.8(1) The state of Iowa prohibits child abuse as defined in Iowa Code chapter 232, criminal assault, and other criminal acts of violence. A children's residential facility shall not use discipline that amounts to child abuse or a criminal act of assault or violence.

106.8(2) A children's residential facility's written policies shall:

a. Prohibit mistreatment, physical abuse, sexual abuse, and neglect of children.

b. Specify reporting and enforcement procedures for the children's residential facility. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel.

c. Prohibit the use of corporal punishment. The facility's policies shall clearly prohibit staff or the children from utilizing corporal punishment as a method of discipline or correcting children.

d. These policies shall be communicated in writing to all staff of the facility.

This rule is intended to implement Iowa Code section 237C.3.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.9(237C) Discipline.

106.9(1) Generally. The facility shall have written policies, which shall be available to all staff and to the child's family, regarding methods used for control and discipline of children. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep.

106.9(2) Corporal punishment is prohibited. The facility shall have a policy that clearly prohibits staff or the children from utilizing corporal punishment as a method of disciplining or correcting children. This policy is to be communicated in writing to all staff of the facility.

106.9(3) The administration of discipline by a child to another child is prohibited.

106.9(4) Behavior expectations. The facility shall make available to the child and the child's parents or guardian written policies regarding the following areas:

a. The general expectation of behavior, including the facility's rules and practices.

b. The range of reasonable consequences that may be used to deal with inappropriate behavior.

106.9(5) Discipline policies shall be discussed with:

a. Staff, volunteers, or others who perform duties under a subcontract with the children's residential facility; and

b. Parents or guardians before children are admitted to the children's residential facility.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.10(237C) Record checks.

106.10(1) A children's residential facility shall conduct record checks for:

a. Any owner, director, staff member, volunteer, or other person who performs duties under a subcontract with the children's residential facility and who:

(1) Has direct responsibility for children, or

(2) Has access to a child when the child is alone.

b. Anyone living in the children's residential facility who is 14 years of age or older.

106.10(2) The record checks shall be conducted to determine whether the person:

a. Has any founded child abuse reports.

b. Has any founded dependent adult abuse reports.

c. Has any criminal convictions.

d. Has been placed on the sex offender registry.

106.10(3) Every applicant for employment shall submit to the children's residential facility a written, signed and dated statement that discloses:

a. Any substantiated instances of child abuse, neglect, or sexual abuse committed by the person.

b. Any substantiated instances of dependent adult abuse committed by the person.

c. Any convictions of crimes involving the mistreatment or exploitation of a child.

106.10(4) A children's residential facility may request additional information from the central abuse registry or the Iowa department of public safety.

106.10(5) If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the children's residential facility shall evaluate the crime or founded child abuse or dependent adult abuse to determine whether or not the crime or founded child abuse or founded dependent adult abuse merits prohibition of employment or any voluntary or subcontracted position. The evaluation shall consider:

a. The nature and seriousness of the crime or founded abuse in relation to the position sought,

b. The time elapsed since the commission of the crime or founded abuse,

c. The circumstances under which the crime or founded abuse was committed,

d. The degree of rehabilitation,

e. The number of crimes or founded abuses committed by the person involved, and

f. The likelihood that the person will commit the crime or founded abuse again.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.11(237C) Seclusion and restraints.

106.11(1) A children's residential facility shall not physically restrain a child unless necessary to prevent the child from hurting self, others, or property. Physical restraint must be conducted in a standing position whenever possible. Prone restraint is prohibited.

a. No staff person shall use any restraint that obstructs the airway of a child.

b. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.

c. If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have the child's hands free of restraint for brief periods unless the staff person determines that such freedom appears likely to result in harm to the child, others, or property.

d. The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly set forth in the child's record by the responsible staff persons.

106.11(2) A children's residential facility shall not put a child into time-out seclusion for more than one hour. A child shall never be secluded in an area that is locked or out of the view of staff, volunteers, or others who perform duties under a subcontract with the children's residential facility.

106.11(3) At no time shall a children's residential facility use a control room, mechanical restraint, or chemical restraint.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.12(237C) Health.

106.12(1) A children's residential facility shall obtain, store, prepare, and serve food and water free from contamination.

106.12(2) A children's residential facility shall have written health policies that describe how the facility will care for a sick child residing there.

106.12(3) A children's residential facility shall have written policies and procedures related to disease control and the use of universal precautions for handling of any bodily excrement or discharge, including blood and breast milk. A children's residential facility shall take precautions to prevent the spread of infectious and communicable disease.

106.12(4) A children's residential facility shall seek immediate medical attention for a child when it is necessary to ensure that the child remains healthy. There shall be 24-hour emergency and routine medical and dental services available and provided when prescribed. Provision of these services shall be documented.

106.12(5) A children's residential facility shall have written policies and procedures to ensure that staff, volunteers, or others who perform duties under a subcontract with the children's residential facility demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease and are certified in the provision of first aid and cardiopulmonary resuscitation.

106.12(6) A children's residential facility shall be required to report any reportable disease to the department of public health.

106.12(7) A children's residential facility shall have written policies on physical examination reports or health status statements for all children in the facility's care.

106.12(8) A children's residential facility shall have written policies and procedures for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications.

106.12(9) A children's residential facility shall ensure that a clearly labeled first-aid kit is available and easily accessible to staff, volunteers, or others who perform duties under a subcontract with the children's residential facility at all times when children are in the facility, in the outdoor play area, and on field trips. The first-aid kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in an area inaccessible to children.

106.12(10) A children's residential facility shall have written policies on reporting illness or injury to parents or guardians. These policies shall be shared with parents or guardians before a child is admitted to the children's residential facility. A significant change in health status or incidents resulting in a serious injury to or death of a child shall be reported immediately to the parent or guardian.

106.12(11) A children's residential facility shall have written policies on smoking and tobacco use that comply with Iowa state law.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.13(237C) Safety.

106.13(1) A children's residential facility shall provide a sufficient number of staff to ensure safe practices that are based on the ages and needs of the children in care to ensure adequate supervision and child safety. This requirement applies to daytime and overnight hours.

106.13(2) Poison control centers' telephone numbers shall be posted in prominent locations and readily available. All poisonous or caustic drugs or materials shall:

a. Be plainly labeled.

b. Be stored separately from other drugs in a specific, well-illuminated cabinet, closet, or storeroom.

c. Be stored in a manner that prevents accidental or intentional ingestion.

d. Be accessible only to authorized persons.

106.13(3) A children's residential facility shall have written policies regarding fishing ponds, lakes, or any bodies of water located on or near the facility's grounds and accessible to children.

a. All swimming pools shall conform to state and local health and safety regulations.

b. Adult supervision shall be provided at all times when children are near or in the water.

106.13(4) A children's residential facility shall have written policies regarding transportation of a child that ensure compliance with Iowa Code section 321.446 regarding child restraint devices.

a. Drivers of vehicles shall possess a valid driver's license.

b. Drivers shall not operate a vehicle while under the influence of alcohol, illegal drugs, or prescription or nonprescription drugs that could impair the drivers' ability to operate a motor vehicle.

c. All vehicles used for children's residential facility activities shall be maintained in safe operating condition.

d. A children's residential facility shall have proof of current insurance that covers all vehicles and drivers used to transport children.

106.13(5) Animals kept on site shall:

a. Be in good health with no evidence of disease.

b. Be of such disposition as to not pose a safety threat to any person.

c. Be maintained in a clean and sanitary manner.

106.13(6) Weapons and ammunition are prohibited on the premises of a children's residential facility.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.14(237C) Emergencies.

106.14(1) A children's residential facility shall have written emergency plans for responding to evacuations, fires, tornadoes, floods, blizzards, other weather incidents, power failures, bomb threats, chemical spills, earthquakes, or other natural or man-made disasters that could create structural damage to the children's residential facility or pose health or safety hazards.

a. The emergency plans shall include guidelines for responding to situations involving intruders within the children's residential facility and grounds, intoxicated persons, lost or abducted children, and evacuations.

b. Emergency plans shall be coordinated with county emergency planning agencies.

c. Evacuations and how to seek protective shelter shall be practiced periodically.

106.14(2) The emergency plans shall include procedures for annual training regarding the contents and implementation of the plans for staff, volunteers, or others who perform duties under a subcontract with the children's residential facility.

106.14(3) A children's residential facility shall have:

a. Written policies and procedures for medical and dental emergencies.

b. Sufficient information and authorization to meet the medical and dental needs or emergencies of children.

106.14(4) Emergency telephone numbers shall be readily available, including emergency telephone numbers for parents or guardians.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.15(237C) Buildings and physical premises. A children's residential facility shall ensure that the facility and grounds, playground surfaces and other areas, and all related equipment are safe and free from hazards.

106.15(1) A children's residential facility shall comply with requirements established by the fire marshal for the applicable type of occupancy and shall comply with any applicable additional fire safety requirements established by local ordinance, including fire inspections.

106.15(2) A children's residential facility shall be structurally sound. Any new facility or existing facility that is extensively renovated shall be constructed in compliance with applicable requirements of the state of Iowa building code established pursuant to Iowa Code chapter 103A and with any local building code in force at the time of construction.

106.15(3) A children's residential facility located in a building built before 1960 shall conduct a visual assessment for lead hazards that exist in the form of peeling or chipping paint.

a. If the presence of peeling or chipping paint is found, the paint shall be presumed to be lead-based paint unless a certified inspector as defined in department of public health rules at 641—Chapter 70 determines that the paint is not lead-based.

b. In the absence of the determination that peeling or chipping paint is not lead-based, a children's residential facility shall use safe work methods as defined by the state department of public health to eliminate human exposure or likely exposure to lead-based paint hazards.

106.15(4) Living areas.

a. All living areas shall:

(1) Have screens on windows used for ventilation.

(2) Be maintained in clean, sanitary conditions, free from vermin, rodents, dampness, noxious gases and objectionable odors.

(3) Be in safe repair.

(4) Provide for adequate lighting when natural sunlight is inadequate.

(5) Have heating and storage areas separated from sleeping or play areas.

(6) Have walls and ceiling surfaced with materials that are asbestos-free.

b. All sleeping rooms shall:

(1) Provide a minimum of 60 square feet per child for multiple occupancy.

(2) Provide a minimum of 80 square feet per child for single occupancy.

(3) Not sleep more than four children per room.

(4) Be of finished construction.

c. Rooms aboveground shall:

(1) Have a ceiling height of at least 7 feet, 6 inches.

(2) Have a window area of at least 8 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

d. Rooms belowground shall:

(1) Have a ceiling height of at least 6 feet, 8 inches.

(2) Have a window area of at least 2 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

(3) Have floor and walls constructed of concrete or other materials with an impervious finish and free from groundwater leakage.

106.15(5) Bedrooms.

a. Each child in care shall have a solidly constructed bed.

b. Sheets, pillowcases, and blankets shall be provided for each child and shall be kept clean and in good repair.

c. Each child in care shall have adequate storage space for private use and a designated space for hanging clothing in proximity to the bedroom occupied by the child.

d. No child over the age of five years shall occupy a bedroom with a member of the opposite sex.

106.15(6) Heating.

a. The heating unit shall be located and operated to maintain the temperature in the living quarters at a minimum of 65 degrees Fahrenheit during the day and 55 degrees Fahrenheit during the night. Variances may be made in case of health problems. Temperature is measured at 24 inches above the floor in the middle of the room.

b. All space heaters and water heaters involving the combustion of fuel, such as gas, oil or similar fuel, shall be vented to the outside atmosphere.

c. Neither rubber nor plastic tubing shall be used as supply lines for gas heaters.

d. The heating or cooling plant shall be checked at least annually and kept in safe working condition at all times.

These rules are intended to implement Iowa Code section 237C.3.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.16(237C) Sanitation, water, and waste disposal. In the case of a conflict between rules and standards adopted pursuant to this chapter and local rules and standards, the more stringent requirement applies.

106.16(1) *Bathroom facilities.*

a. Bathrooms shall have an adequate supply of hot and cold running water.

b. Each bathroom shall be properly equipped with toilet tissue, towels, soap, and other items required for personal hygiene unless children are individually given these items. Paper towels, when used, and toilet tissue shall be in dispensers.

c. Toilets and baths or showers shall provide for individual privacy.

d. There shall be a shower or tub for each ten children or portion thereof.

e. Tubs and showers shall have slip-proof surfaces.

f. At least one toilet and one lavatory shall be provided for each six children or portion thereof.

g. Toilet facilities shall be provided with natural or artificial ventilation capable of removing odors and moisture.

h. Toilet facilities adjacent to a food preparation area shall be separated completely by an enclosed solid door.

i. All toilet facilities shall be kept clean.

j. When more than one stool is used in one bathroom, partitions providing privacy shall be used.

k. Toilets, wash basins, and other plumbing or sanitary facilities shall be maintained in good operating condition.

106.16(2) *Food preparation and storage.*

a. Cracked dishes and utensils shall not be used in the preparation, serving, or storage of food.

b. Storage areas for perishable foods shall be kept at 45 degrees Fahrenheit or below.

c. Storage areas for frozen foods shall be kept at 0 degrees Fahrenheit or below.

d. Food that is to be served hot shall be maintained at 140 degrees Fahrenheit or above.

e. Food that is to be served cold shall be maintained at 45 degrees Fahrenheit or below.

f. The kitchen and food storage areas shall be kept clean and neat. Foods shall not be stored on the floor.

g. The floor and walls shall be of smooth construction and in good repair.

106.16(3) *Personnel handling food.* Personnel who handle food shall:

a. Be free of infection.

b. Be clean and neatly groomed.

c. Wear clean clothes.

d. Not use tobacco in any form while preparing or serving food.

106.16(4) *Dishwashing facilities.*

a. Manual dishwashing will be allowed in facilities that normally serve 15 or fewer people at one meal.

b. Commercial dishwashers shall be used in facilities serving more than 15 people at one meal and shall meet the following criteria:

(1) When chemicals are added for sanitation purposes, they shall be automatically dispensed.

(2) Machines using hot water for sanitizing must maintain wash water at a temperature of at least 150 degrees Fahrenheit and rinse water at a temperature of at least 180 degrees Fahrenheit or a single temperature machine at 165 degrees Fahrenheit for both wash and rinse.

(3) All machines shall be thoroughly cleaned and sanitized at least once each day or more often if necessary to maintain satisfactory operating condition.

c. Soiled and clean dish table areas shall be of adequate size to accommodate the dishes for one meal.

d. All handheld food preparation and serving equipment shall be cleaned and sanitized following each meal. Dispensers, urns, and similar equipment shall be cleaned and sanitized daily.

106.16(5) *Foods not prepared at site of serving.*

a. The place where food is prepared for off-site serving shall conform to all requirements for on-site food preparation.

b. Food shall be transported in covered containers or completely wrapped or packaged so as to be protected from contamination.

c. During transportation, and until served, hot foods shall be maintained at 140 degrees Fahrenheit or above and cold food shall be maintained at 45 degrees Fahrenheit or below.

106.16(6) *Milk supply.* When fluid milk is used, it shall be pasteurized Grade A.

106.16(7) *Public water supply.* The water supply is approved when the water is obtained from a public water supply system, as regulated by the department of natural resources.

106.16(8) *Private water supplies.* Any facility that serves at least 25 people for at least 60 days during the year and is supplied by its own well meets the definition of a public water supply and must be regulated by the department of natural resources.

a. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected within 30 days of discovery by a well contractor certified by the state.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO3-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and when total arsenic levels are 10 µg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is not safe to consume. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought back into a safe and maintained condition. The statement shall be submitted to the department within 10 days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days from any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

106.16(9) *Heating or storage of hot water.* Each tank used for the heating or storage of hot water shall be provided with a pressure and temperature relief valve.

106.16(10) *Sewage treatment.*

a. A children's residential facility shall be connected to a public sewer system where available.

b. Private disposal systems shall be designed, constructed, and maintained so that no unsanitary or nuisance conditions exist, such as surface discharge of raw or partially treated sewage or failure of the sewer lines to convey sewage properly.

106.16(11) *Garbage storage and disposal.*

a. A sufficient number of garbage and rubbish containers shall be provided to properly store all material between collections.

b. Containers shall be insect-, rodent-, and leakproof and shall be maintained in a sanitary condition.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.17(237C) Staffing.

106.17(1) Children's residential facility staff shall be 21 years of age or older with appropriate training and experience related to job duties.

106.17(2) A children's residential facility shall have written policies and procedures regarding staff supervision, development, training requirements, and orientation to children's residential facility policies and practices.

106.17(3) A children's residential facility shall provide a sufficient number of staff to ensure proper supervision and child safety at all times and at all activities conducted by a children's residential facility off its premises.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.18(237C) Reports and inspections.

106.18(1) The administrator may require submission of reports by a certificate of approval holder and shall cause at least one annual unannounced inspection of a children's residential facility to assess compliance with applicable requirements and standards.

106.18(2) The inspections shall be conducted by the department of inspections and appeals in addition to initial, renewal, and other inspections that result from complaints or self-reported incidents.

106.18(3) The department of inspections and appeals and the department of human services may examine records of a children's residential facility and may inquire into matters concerning the children's residential facility and its employees, volunteers, and subcontractors relating to requirements and standards for children's residential facilities under this chapter.

[**ARC 3007C**, IAB 3/29/17, effective 5/3/17]

441—106.19(232) Mandatory reporting of child abuse.

106.19(1) *Mandatory reporters.* Any employee, operator, owner, or other person who performs duties for a children's residential facility shall make a report, in accordance with Iowa Code section 232.69, whenever that person reasonably believes a child for whom the person is providing care has suffered abuse.

106.19(2) *Required training.* Staff shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

106.19(3) *Training documentation.* The certified children's residential facility shall develop and maintain a written record for each employee, operator, owner, or other person who performs duties for the children's residential facility in order to document the content and amount of training.

This rule is intended to implement Iowa Code section 232.69.

[**ARC 4113C**, IAB 11/7/18, effective 1/1/19]

These rules are intended to implement Iowa Code chapter 237C.

[Filed ARC 8009B (Notice ARC 7769B, IAB 5/20/09), IAB 7/29/09, effective 9/2/09]
[Filed ARC 3007C (Notice ARC 2918C, IAB 2/1/17), IAB 3/29/17, effective 5/3/17]
[Filed ARC 4113C (Notice ARC 3971C, IAB 8/29/18), IAB 11/7/18, effective 1/1/19]
[Filed ARC 4973C (Notice ARC 4675C, IAB 9/25/19), IAB 3/11/20, effective 4/15/20]
[Filed ARC 0109D (Notice ARC 9845C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTER 114
LICENSING AND REGULATION OF ALL GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN

[Prior to 7/1/83, Social Services[770] Ch 114]
[Prior to 2/11/87, Human Services[498]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

441—114.1(237) Applicability. This chapter outlines the basic standards for all group living foster care facilities and contains the basic standards applicable to community residential facilities for children. Additional standards applicable to specific levels of group living are discussed in 441—Chapter 115, "Licensing and Regulation of Comprehensive Residential Facilities for Children," and 441—Chapter 116, "Licensing and Regulation of Residential Facilities for Children with an Intellectual Disability or Brain Injury."

[**ARC 3185C**, IAB 7/5/17, effective 9/1/17; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.2(237) Definitions.

"Adequate lighting" means a light intensity of 20 foot-candles (approximately equivalent to a 60 watt bulb at a clear distance of 5 feet).

"Caseworker" means any staff of the facility who is primarily responsible for planning for individual children, a family, or groups, as well as coordination with referral sources and coordination of services to the individual.

"Casework supervisor" means any staff of the facility who provides supervision of the caseworker(s) by regularly scheduled face-to-face case specific discussions with the caseworker.

"Chemical restraint" means the use of chemical agents including psychotropic drugs as a form of restraint. The therapeutic use of psychotropic medications as a component of a service plan for a particular child is not considered chemical restraint.

"Child care worker" means any staff of the facility whose primary responsibility is the direct care of children in the facility.

"Community residential facility" means a facility which provides care for children who are considered unable to live in a family situation due to social, emotional or physical disabilities but are capable of interacting in a community environment with a minimum amount of supervision. The facility provides 24-hour care including board and room. Community resources are used for education, recreation, medical, social and rehabilitation services. The facility is responsible for planning the daily activities of the children, discipline, guidance, peer relationships, and recreational programs.

"Control room" means a locked room used for treatment purposes in a comprehensive residential facility.

"Educational degrees" means formally approved certificates from accredited schools.

"Immediate family," for the purposes of this chapter, means persons who have a blood or legal relationship with the child.

"Mechanical restraint" means restriction by the use of a mechanical device of a child's mobility or ability to use the hands, arms, or legs.

"Physical restraint" means direct physical contact required on the part of a staff member to prevent a child from hurting self, others, or property.

"Private juvenile detention home" means a juvenile detention home as defined in Iowa Code section 232.2, which does not meet the requirements of being "county or multicounty" as defined in rule 441—105.1(232).

"Private juvenile shelter care home" means a juvenile shelter care home as defined in Iowa Code section 232.2, which does not meet the requirements of being "county or multicounty" as defined in rule 441—105.1(232).

"Prone restraint" means a physical restraint in which a child is held face down on the floor.

"Protective locked environment" means the same as defined in Iowa Code section 237.1(17).

"Schedule II medications" means those controlled substances identified in Iowa Code chapter 124.

"Staff" means any person providing care or services to or on behalf of the residents whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

"Time out" means the temporary and short-term restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control. Staff physically preventing the resident from leaving the time out area would be considered seclusion in control room conditions.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—114.3(237) Physical standards. Local building and zoning ordinances shall be met.

114.3(1) *Grounds.*

a. An outdoor play area of 75 square feet per child shall be provided.

b. The play area shall be identified and kept free from hazards that could cause injury to a child.

c. Rubbish and trash shall be kept separated from the play area.

d. The grounds shall be adequately drained.

114.3(2) *Buildings.*

a. All living areas shall:

(1) Have screens on windows used for ventilation.

(2) Be maintained in clean, sanitary conditions, free from vermin, rodents, dampness, noxious gases and objectionable odors.

(3) Be in safe repair.

(4) Provide for adequate lighting when natural sunlight is inadequate.

(5) Have heating and storage areas separated from sleeping or play areas.

(6) Have walls and ceiling surfaced with materials that are asbestos free.

b. All sleeping rooms shall:

(1) Provide a minimum of 60 square feet per child for multiple occupancy.

(2) Provide a minimum of 80 square feet per child for single occupancy.

(3) Not sleep more than four children per room. Facilities licensed prior to July 1, 1981, meeting current square footage requirements shall be allowed to house five children per room.

(4) Be of finished construction.

Facilities licensed prior to July 1, 1981, having a square foot area less than that required in subparagraphs (1) and (2) shall be considered to meet those standards.

c. All rooms aboveground shall:

(1) Have a ceiling height of at least 7 feet, 6 inches.

(2) Have a window area of at least 8 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

d. All rooms belowground shall:

(1) Have a ceiling height of at least 6 feet, 8 inches.

(2) Have a window area of at least 2 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.

(3) Have floor and walls constructed of concrete or other materials with an impervious finish and free from groundwater leakage.

114.3(3) *Bedrooms.*

a. Each child in care shall have a solidly constructed bed.

b. Sheets, pillowcases, and blankets shall be provided for each child and shall be kept clean and in good repair.

c. Each child in care shall have adequate storage space for private use, and a designated space for hanging clothing in proximity to the bedroom occupied by the child.

d. No child over the age of five years shall occupy a bedroom with a member of the opposite sex.

114.3(4) *Heating.*

a. The heating unit shall be located and operated to maintain the temperature in the living quarters at a minimum of 65 degrees Fahrenheit during the day and 55 degrees Fahrenheit during the night. Variances may be made in case of health problems. Temperature is measured at 24 inches above the floor in the middle of the room.

b. All space heaters and water heaters involving the combustion of fuel, such as gas, oil or similar fuel, shall be vented to the outside atmosphere.

c. Neither rubber nor plastic tubing shall be used as supply lines for gas heaters.

d. The heating or cooling plant shall be checked at least annually and kept in safe working condition at all times.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.4(237) Sanitation, water, and waste disposal.

114.4(1) *Bathroom facilities.*

a. Bathrooms shall have an adequate supply of hot and cold running water.

b. Each bathroom shall be properly equipped with toilet tissue in dispensers, paper towels or functional hand dryers, soap, and other items required for personal hygiene.

c. Toilets and baths or showers shall provide for individual privacy.

d. There shall be a shower or tub for each ten children or portion thereof.

e. Tubs and showers shall have slip-proof surfaces.

f. At least one toilet and one wash basin shall be provided for each six children or portion thereof.

g. Toilet facilities shall be provided with natural or artificial ventilation capable of removing odors and moisture.

h. Toilet facilities adjacent to a food preparation area shall be separated completely by an enclosed solid door.

i. All toilet facilities shall be kept clean.

j. When more than one stool is used in one bathroom, partitions providing privacy shall be used.

k. Toilets, wash basins, and other plumbing or sanitary facilities shall be maintained in good operating condition.

114.4(2) *Food preparation and storage.*

a. Cracked dishes and utensils shall not be used in the preparation, serving, or storage of food.

b. Storage areas for perishable foods shall be kept at 45 degrees Fahrenheit or below.

c. Storage areas for frozen foods shall be kept at zero degrees Fahrenheit or below.

d. Food that is to be served hot shall be maintained at 140 degrees Fahrenheit or above.

e. Food that is to be served cold shall be maintained at 45 degrees Fahrenheit or below.

f. The kitchen and food storage areas shall be kept clean and neat. Foods shall not be stored on the floor.

g. The floor and walls shall be of smooth construction and in good repair.

114.4(3) *Personnel handling food.* Personnel who handle food shall:

a. Be free of infection.

b. Be clean and neatly groomed.

c. Wear clean clothes.

d. Not use tobacco in any form while preparing or serving food.

114.4(4) *Dishwashing facilities.*

a. Manual dishwashing will be allowed in facilities that normally serve 15 or less people at one meal.

b. Commercial dishwashers shall be used in facilities serving more than 15 people at one meal, and shall meet the following criteria:

(1) When chemicals are added for sanitation purposes, they shall be automatically dispensed.

(2) Machines using hot water for sanitizing must maintain wash water at least 150 degrees Fahrenheit and rinse water at a temperature of at least 180 degrees Fahrenheit or a single temperature machine at 165 degrees Fahrenheit for both wash and rinse.

(3) All machines shall be thoroughly cleaned and sanitized at least once each day or more often if necessary to maintain satisfactory operating condition.

c. Soiled and clean dish table areas shall be of adequate size to accommodate the dishes for one meal.

d. All hand-held food preparation and serving equipment shall be cleaned and sanitized following each meal. Dispensers, urns, and similar equipment shall be cleaned and sanitized daily.

114.4(5) *Foods not prepared at site of serving.*

a. The place where food is prepared for off-site serving shall conform with all requirements for on-site food preparation.

b. Food shall be transported in covered containers or completely wrapped or packaged so as to be protected from contamination.

c. During transportation, and until served, hot foods shall be maintained at 140 degrees Fahrenheit or above and cold food maintained at 45 degrees Fahrenheit or below.

114.4(6) *Milk supply.* When fluid milk is used, it shall be pasteurized Grade A.

114.4(7) *Public water supply.* The water supply is approved when the water is obtained from a public water supply system.

114.4(8) *Private water supplies.* Any facility that serves at least 25 people for at least 60 days during the year and is supplied by its own well meets the definition of a public water supply and must be regulated by the department of natural resources.

a. Maintenance and operation. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected within 30 days of discovery by a well contractor certified by the state.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO_3^-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and when total arsenic levels are 10 µg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is unsafe for drinking water uses. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought

back into a safe and maintained condition. The statement shall be submitted to the department within ten days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days from any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

114.4(9) *Heating or storage of hot water.* Each tank used for the heating or storage of hot water shall be provided with a pressure and temperature relief valve.

114.4(10) *Sewage treatment.*

a. Facilities shall be connected to public sewer systems where available.

b. Private disposal systems shall be designed, constructed, and maintained so that no unsanitary or nuisance conditions exist, such as surface discharge of raw or partially treated sewage or failure of the sewer lines to convey sewage properly.

114.4(11) *Garbage storage and disposal.*

a. A sufficient number of garbage and rubbish containers shall be provided to properly store all material between collections.

b. Containers shall be fly tight, leakproof, and rodent proof and shall be maintained in a sanitary condition.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.5(237) Safety.

114.5(1) *General.* Facilities shall take sufficient measures to ensure the safety of the children in care in all of their programs.

114.5(2) *Premises.*

a. Stairways, halls and aisles shall be of substantial nonslippery material, shall be maintained in a good state of repair, shall be adequately lighted and shall be kept free from obstructions at all times. All stairways shall have handrails.

b. Radiators, registers, and steam and hot water pipes shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.

c. Fuse boxes and circuit breakers shall be inaccessible to children.

d. Facilities shall have written procedures for the handling and storage of hazardous materials.

e. Firearms and ammunition shall be kept under lock and key and inaccessible to children. When firearms are used, the facility shall have written policies regarding their purpose, use, and storage.

f. All swimming pools shall conform to state and local health and safety regulations. Adult supervision shall be provided at all times when children are using the pool.

g. The facility shall have policies regarding fishing ponds, lakes, or any bodies of water located on or near the facility grounds and accessible to the children.

114.5(3) *Emergency evacuation and safety procedures.* Upon admission all children shall receive instruction regarding evacuation and safety procedures. All living units utilized by children shall have a posted plan for evacuation and safety procedures regarding severe weather events, fire or other natural or man-made disasters. Practice fire drills shall be held monthly, and severe weather drills shall be held twice annually.

114.5(4) *Fire inspection.* Each facility shall procure an annual fire inspection approved by the state fire marshal and shall meet the recommendations thereof.

114.5(5) *Local codes.* Each facility shall meet local building, zoning, sanitation and fire safety ordinances. Where no local standards exist, state standards shall be met.

114.5(6) *Safety, protection, and well-being of children in care.* Facilities shall develop and follow written policies and procedures that assure the safety, protection, and well-being of children in care. Policies shall address, but not be limited to, the following:

a. Supportive leadership of the facility that promotes protecting each child from abuse or bullying from other children and staff.

b. Defining the facility's culture to reduce the use of unnecessary restraint.

c. Clear definitions of unsafe behavior and the emergency situations when it is appropriate to use physical interventions.

d. Staff training and development that give staff confidence they are supported by leadership with proper supervision and ongoing access to information about best practices and evidence-based approaches to care.

e. Adequate supervision of children while the children are using any hazardous or dangerous objects or equipment and when children are using the Internet or other social media.

f. The social, cultural, and developmental needs of children in care.

g. Providing personal care items to children in care. Personal care items must be provided to the children in care and must reflect the individual, cultural, racial and ethnic needs of the youth living in the facility's programs.

[**ARC 2743C**, IAB 10/12/16, effective 12/1/16; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.6(237) Organization and administration. Any change in the name of the facility, the address of the facility, the executive, or the capacity shall be reported to the department.

114.6(1) *Table of organization.* A table of organization including the identification of lines of responsibility and authority from policymaking to service to clients shall be available to the licensing staff.

114.6(2) *Purpose of agency or facility.* The purpose or function of the organization shall be clearly defined in writing and shall include a description of the children to be accepted for care and the services offered.

114.6(3) *Governing bodies or individuals.* All group living foster care facilities shall:

a. Have a governing board or individuals who are accountable for and have authority over the policies and activities of the organization. In the case of an organization owned by a proprietor or partnership, the proprietor or partner shall be regarded as the governing body.

b. Provide the department with a list of names, addresses, telephone numbers and titles of the members of the governing body.

c. Have adequate insurance covering fire and liability as a protection to children in care.

d. For organizations with the home base located outside Iowa, have duly authorized representatives with decision-making abilities designated within the state of Iowa.

114.6(4) *Executive director.* The governing body or proprietor or partner(s) shall select and appoint an executive director with full administrative responsibility and qualifications for carrying out the policies, procedures and programs established by the governing body.

114.6(5) *Financial solvency of facilities.* Profit and nonprofit institutions shall maintain financial solvency to ensure adequate care of children and youth for whom responsibility is assumed. It shall have sufficient financial resources, predictable income, or both, and not be totally dependent upon current fees, for a three-month operating period. The facility shall have written policies and procedures describing the program of the facility and specifying how it will be carried out.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.7(237) Policies and record-keeping requirements.

114.7(1) *Policies in writing.* The following current personnel policies and practices of the agency and relating to the specific facility shall be described in writing and accessible to staff upon request:

a. Affirmative action and equal employment opportunity policies and procedures covering the hiring, assignment, and promotion of employees.

b. Job descriptions for all positions.

c. Provisions for vacations, holidays, and sick leave.

d. Effective, time-limited grievance procedures allowing the aggrieved party to bring the grievance to at least one level above that party's supervisor.

e. Authorized procedures, consistent with due process, for the suspension and dismissal of an employee for just cause.

f. Written procedures for annual employee evaluations.

114.7(2) *Health of staff.* Each staff person who has direct client contact or is involved in food preparation shall be tested for tuberculosis and have a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. Physical examinations shall be completed every three years thereafter. Evidence of these examinations or tests shall be included in each personnel file. The examinations or tests shall be completed by one of the following:

a. A physician as defined in Iowa Code section 135.1(4);

b. An advanced registered nurse practitioner who is registered with and certified by the Iowa board of nursing to practice nursing in an advanced role; or

c. A physician assistant licensed under Iowa Code chapter 148C.

114.7(3) *Staff records.*

a. The facility shall maintain the following information with respect to each staff person:

(1) Name and current address of each staff person.

(2) At least two written references or documentation of oral references. In case of unfavorable references, there shall be documentation of further checking to ensure that the person will be reliable.

(3) Documentation of all record checks and evaluations as required in subrule 114.24(1).

(4) A written, signed and dated statement furnished by the staff person prior to providing any care or services to or on behalf of the facility which discloses any founded reports of child abuse on the person that may exist.

(5) Reserved.

(6) Records of a physical examination or a record of a health report, as required in subrule 114.7(2), plus a written record of subsequent health services rendered to staff necessary to ensure that each individual is physically able to perform the job duties or functions.

(7) Reserved.

(8) Records of training sessions attended, including dates and content of the training.

(9) When otherwise required in situations that apply, a certified copy of a school transcript, diploma, or written statement from the school or supervising agency for positions having educational requirements.

b. In addition, with respect to staff who are employed by the facility, the facility shall maintain the following records:

(1) Social security number of each employee.

(2) A job application containing sufficient information to justify the initial and current employment.

(3) A certified copy of a school transcript, diploma, or written statement from the school or supervising agency before permanent employment of applicants for positions having educational requirements.

(4) Written verification of licensure before permanent employment of applicants for positions requiring licenses. Evidence of renewal of licenses as required by the licensing agency.

(5) Current information relative to work performance evaluation.

(6) Information on written reprimands or commendations.

(7) Information on position in the agency and date of employment.

(8) If the applicant, probationary employee or temporary employee has completed and submitted Form 470-2310 to the agency, a copy shall be kept in the staff record.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.8(237) Staff.

114.8(1) *Qualifications of staff.*

a. A caseworker shall have graduated from a four-year college or university with a bachelor's degree in a human services field related to social work, psychology or a related behavioral science or in education and the equivalent of one year of full-time experience in social work or in the delivery of human services in a public or private agency, or six years of supervised child welfare experience in residential care or a combination of advanced education in the behavioral sciences and experience equal to six years.

b. A casework supervisor shall have either a master's degree in social work with one year of supervised experience after the master's degree or a master's degree in psychology or counseling with two years of experience beyond the master's degree, one of which was under supervision. The experience shall be in the area of child welfare services.

c. Child care workers shall be at least 18 years of age.

d. Any licensed facility having persons in employment in positions for which present rules require higher qualifications will be considered to meet rules with the present staff. New staff will need to meet the requirements of these rules.

e. A person who has a record of a criminal conviction or founded child or dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child or dependent adult abuse has been made by the department which concludes that the crime or founded child or dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child or dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

114.8(2) *Number of staff.*

a. Children shall be provided with 24-hour awake supervision. There shall be at least one awake and readily accessible staff person on duty for each currently occupied living unit. The staff person shall make regular visual checks at least every hour throughout the night. A log shall be kept of all checks, including the time of the check and any significant observations. Policies for nighttime checks shall be in writing.

b. Each facility shall have the services of a casework supervisor and a caseworker adequate to fulfill the staff duties.

c. There shall be an on-call system operational 24 hours a day to provide supervisory consultation. There shall be a written plan documenting this system.

d. The number and qualifications of the staff will vary depending on the needs of the children. There shall be at least a one to eight staff to client ratio during all times children are awake and present in the facility and during supervised outings.

114.8(3) *Staff duties.*

a. The casework supervisor shall provide in-person case specific supervision at the site of the facility for one hour per month per caseworker and be available for consultation in case of emergency.

b. Caseworkers shall:

(1) Develop a service plan for each child containing goals and objectives with projected dates of accomplishment and shall involve the client, referral agency, and family whenever possible.

(2) Develop a specific plan relating to the involvement of the child's parents unless documented by the caseworker that their involvement would be counterproductive.

c. The facility staff shall be responsible for the following:

(1) Documenting case reassessments quarterly, involving the same personnel as previously involved in service plan development.

(2) Documenting the implementation of the service plan.

(3) Providing for scheduled in-person conferences with each resident.
(4) Providing a supportive atmosphere for the child.
(5) Providing for coordination of internal and external activities of the child.
(6) Providing for liaison with the referring agency.
(7) Providing leadership and guidance to the children.
(8) Providing a mechanism for dealing with day-to-day program operations.
(9) Being responsible for overseeing and maintaining general health and well-being of children.
(10) Supervising the living activities of the children.
(11) Monitoring and recording behavior on a daily basis.
(12) At all times, knowing where the children are and where they are supposed to be to assure ongoing safety.

114.8(4) *Staff development.* Staff development shall be appropriate to the size and nature of the facility. There shall be a written format for staff training that includes:

a. Orientation for all new employees to acquaint them with the philosophy, organization, program practices, and goals of the facility.

b. Training of new employees in areas related to their job assignments.

c. Provisions for all staff members to improve their competency. This may be accomplished through such means as:

(1) Attending staff meetings.
(2) Attending seminars, conferences, workshops and institutes.
(3) Visiting other facilities.
(4) Access to consultants.
(5) Access to current information and evidence-based practices relevant to the facility's services.

d. An individual designated responsible for staff development and training, who will complete a written staff development plan which shall be updated annually.

114.8(5) *Volunteers.* A facility that utilizes volunteers to work directly with a particular child or group of children shall have a written plan for using volunteers. This plan shall be given to all volunteers. The plan shall indicate that all volunteers shall:

a. Be directly supervised by a paid staff member.

b. Be oriented and trained in the philosophy of the facility and the needs of children in care, and methods of meeting those needs.

c. Be subject to character, reference, and record check requirements described in subrule 114.24(1).

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.9(237) Intake procedures.

114.9(1) *Intake policies.* The agency shall have written intake policies specific to the licensed facility.

114.9(2) *Basis of acceptance.* Children shall be accepted for care only after the following criteria have been met:

a. An assessment of the child's need for service and supervision has been agreed upon by the staff of the facility and the referring agency worker. The child, the child's family, and any other significant people shall be invited to participate in this process to the fullest extent possible.

b. The assessment indicates that the child requires the care offered by this type of facility and is likely to benefit from the program the facility offers.

114.9(3) *Referral information.* The following information shall be made available prior to any decision being made regarding the acceptance of a child. The following information shall be requested by the facility if not yet received.

a. A current social history.

b. A copy of the child's physical assessment including immunization history completed within one year prior to application, when available.

c. Where indicated, or when available, psychological testing completed no more than one year prior to referral.

d. Current educational data.

e. When indicated or available, psychiatric report completed no more than one year prior to referral.

f. Referring agency's case plan which includes goals and objectives to be achieved during placement with a time frame for the achievement of these goals and objectives.

g. Documentation of the legal status of the child which includes any court orders or statements of custody and guardianship.

114.9(4) *Admission requirements.*

a. The following items shall be secured upon admission of the child to the facility.

(1) A placement agreement for the child signed by the person having legal responsibility for the child and the agency where the child is being placed. When this is not available at the time of placement, it shall be furnished within 48 hours of placement in the facility.

(2) Emergency medical authorization from the court, the parents, the guardian, or custodian.

b. The following items shall be provided to the child, the child's family or guardian, and the referring worker at the time of placement:

(1) A description of the services provided.

(2) Written policies regarding children's rights as in rule 441—114.13(237).

(3) Written policies regarding religion, work or vocational experiences, family involvement, and discipline as in rules 441—114.15(237) to 441—114.17(237) and rule 441—114.20(237).

114.9(5) *Personal assessment.* At the time of intake, individual needs will be identified by staff based on written and verbal information from referral sources, observable behavior at intake and the initial interview with youth or family, school contacts, physical examinations, and other relevant material. The individual assessment shall provide the basis for development of a service plan for each child.

114.9(6) *Educational assessment.* An educational assessment shall be developed by the staff and the referring worker. Involvement of the parents or guardian, area education agency, and public schools may be appropriate.

114.9(7) *Person responsible.* Each agency shall designate a person or persons who have the authority to do intake.

114.9(8) *Intake sheet.* An intake sheet shall be completed on each child containing at least the information specified in 114.11(2).

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.10(237) Program services.

114.10(1) *Evaluation services.*

a. When evaluation services are provided by staff of the facility, the services shall be clearly defined so that referral sources are clear about the components of the service.

b. Evaluations shall be based on behavioral observations, social history, educational assessments and shall include an assessment of vocational needs, recreational skills, and physical therapy, speech, language, vision and hearing needs to assist in planning and placement for the child. The need for providing all of these evaluative services will be determined on the basis of the specific child being referred.

114.10(2) *Service plan.* There shall be a written service plan for each child. The service plan shall be based on the individual needs determined through the assessment of each resident, provide for consultation with the family, and shall include the following:

a. Identification of special needs.

b. Description of planned services including measurable goals and objectives which indicate which staff person will be responsible for the specific services in the plan.

c. Indication of where the services are to occur and note the frequency of activities or services.

d. A discharge summary.

114.10(3) *Daily routine.* Each facility shall provide a daily routine for the children in residence which is directed toward developing healthful habits in eating, sleeping, exercising, personal care, hygiene, and grooming according to the needs of the individual child and the living group.

114.10(4) *Daily log.* The facility shall maintain a daily log to generally record noteworthy occurrences regarding the children in care. Problem areas or unusual behavior for specific children shall be recorded in individual children's records.

114.10(5) *Educational services.* An educational program shall be available for each child in accordance with abilities and needs. The educational and teaching standards established by the state department of education shall be met when an educational program is provided within an institution.

114.10(6) *Health care.*

a. There shall be 24-hour emergency and routine medical and dental services available and provided when prescribed. Provisions for these services shall be documented.

b. The facility shall arrange a physical assessment including vision and hearing tests for each child in care within one week of admission unless the child has received an examination within the past year and the results of this examination are available to the facility.

c. A facility shall not require medical treatment when the parent(s) or guardian of the child or the child objects to treatment on the grounds that it conflicts with the tenets and practices of a recognized church or religious denomination of which the parent(s), guardian or child is an adherent. In potentially life-threatening situations, the facility shall refer the child's care to appropriate medical and legal authorities.

d. A facility shall have and staff shall follow written procedures in case of medical emergency.

e. A facility shall schedule a dental examination for each child within 14 days of admission unless the child has been examined within six months prior to admission and the facility has the results of that examination.

114.10(7) *Dietary program.* The facility shall provide properly planned, nutritious and inviting food and take into consideration the dietary and health needs of children. The facility shall follow all dietary recommendations prescribed by medical personnel or a dietitian licensed in the state of Iowa.

114.10(8) *Recreation and leisure programs.*

a. The facility shall provide adequately designed and maintained indoor and outdoor activity areas, equipment, and equipment storage facilities appropriate for the residents it serves. There shall be a variety of activity areas and equipment so that all children can be active participants in different types of individual and group sports and other motor activities.

b. Games, toys, equipment, and arts and crafts material shall be selected according to the ages and number of children with consideration to the needs of the children to engage in active and quiet play.

c. The facility shall plan and carry out efforts to establish and maintain workable relationships with community recreational resources so these resources may provide opportunities for children to participate in community recreational activities.

114.10(9) *Casework services.* A facility shall provide or obtain casework services in the form of counseling in accordance with the needs of each child's individual service plan. Casework services include crisis intervention, daily living skills, interpersonal relationships, future planning and preparation for placement as required by the child.

114.10(10) *Psychiatric and psychological services—(Optional service).*

a. When the diagnostic evaluation of a child indicates need for care by a psychiatrist and under psychiatric guidance, the specialized treatment or consultation shall be provided or arranged by the facility.

b. Psychologists, whose services are used in behalf of children, shall be licensed as a psychologist in the state of Iowa, or be certified by the department of education.

114.10(11) *Volunteers—(Optional service).* Rescinded IAB 12/4/19, effective 1/8/20.

114.10(12) *Liability.* Licensed group living foster care facilities that apply the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This subrule shall not remove or limit any existing liability protection afforded under any other law.

[**ARC 2743C**, IAB 10/12/16, effective 12/1/16; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.11(237) Case files.

114.11(1) *Generally.* All facilities shall establish and maintain case files on each child. The case files shall include the following:

114.11(2) *Face sheet.* The face sheet shall contain the following information:

a. Full name, birth place and date of birth.

b. Parents' full name.

c. Parents' address and telephone number.

d. Religious preference of parents and child.

e. Statement of who has legal custody and guardianship.

f. Name of the referring worker and agency making the referral.

g. Telephone number and address of the agency or court making the referral and contact information of the child's attorney or guardian ad litem.

114.11(3) *Referral packet.* All of the information required in the referral packet shall be contained in the case record including a social history on the child, a copy of the child's physical assessment and immunization history, psychological testing, when available, current educational information, psychiatric report, when available, and the referring agency's case plan.

114.11(4) *Legal documents.*

a. Placement agreement signed by parent(s) or custodian of the child.

b. Petitions and orders of the court regarding adjudication, custody, or guardianship.

114.11(5) *Psychiatric and psychological.* Psychiatric and psychological reports, when available.

114.11(6) *Correspondence.* Correspondence regarding the child.

114.11(7) *Medical.*

a. Medical and surgical authorizations signed by the parent(s), guardian, or contained in the court order.

b. Record of medical care received while in the facility.

c. Information on past medical history.

114.11(8) *School.*

a. Name of school currently attended.

b. Grade placement.

c. Any specific educational problem.

d. Remedial action recommended.

114.11(9) *Service plan.* Individual child service plan, quarterly update, and revisions of the service plan. The service plan shall be updated quarterly or any time upon receipt of a new case permanency plan or juvenile court services plan or as otherwise needed to address the changing needs of the child. Discharge summary completing the service plan information shall be completed upon a child's discharge from placement.

114.11(10) *Documentation.* The following information shall be documented in each child's record.

a. Appropriate notes, all significant contacts with parents, referring worker and other collateral contracts, as well as staff counseling with child and notations on behavior.

b. A summary related to discharge including:

(1) The name, address and relationship of the person or agency to whom the child was released.

(2) The discharge summary (as included in the service plan).

(3) Final disposition of a child's medications as applicable.

(4) Identification of who transported the child and destination postdischarge.

114.11(11) *Electronic records.* An authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents, who are served as a result of a contract with the department, of the facility.

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion.

b. The facility shall provide a terminal where the authorized representative may access records.

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.12(237) Drug utilization and control. The agency shall have and follow written policies and procedures governing the methods of handling prescription drugs and over-the-counter drugs within the facility. No prescription or narcotic drugs are to be allowed in the facility without the authorization of a licensed physician or authorized prescriber.

114.12(1) *Approved drugs.* Only drugs which have been approved by the federal Food and Drug Administration for use in the United States may be used. No experimental drugs may be used.

114.12(2) *Prescribed by physician or other authorized prescriber.* Drugs shall be prescribed by a physician licensed to practice in the state of Iowa or the state in which the physician is currently practicing, or by an advanced registered nurse practitioner or physician assistant as permitted by Iowa law, and may be prescribed only for use in accordance with dosage ranges and indications approved by the federal Food and Drug Administration.

114.12(3) *Dispensed from a licensed pharmacy.* Drugs provided to residents shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Code of Iowa, or from a licensed pharmacy in another state according to the laws of that state, or by a licensed physician.

114.12(4) *Locked cabinet.* All drugs shall be maintained in a locked cabinet. Schedule II medications shall be maintained in a locked box within the locked cabinet. The cabinet key shall be in the possession of a staff person. A bathroom shall not be used for drug storage. A documented exception can be made by persons identified in these rules who may allow self-administered drugs as discussed in subrule 114.12(17).

114.12(5) *Medications requiring refrigeration.* Medications requiring refrigeration shall be kept in a locked box in the refrigerator and separated from food and other items.

114.12(6) *Poisonous or caustic drugs.* All potent poisonous or caustic drugs shall be plainly labeled, stored separately from other drugs in a specific well-illuminated cabinet, closet, or storeroom, and made accessible only to authorized persons.

114.12(7) *Prescribed medications.* All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of the drug, dosage, directions for use and, date of issuing the drug. Medications shall be packaged and labeled according to state and federal guidelines.

114.12(8) *Medication containers.* Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist.

114.12(9) *Medication for discharged residents.* When a resident is discharged or leaves the facility, the facility shall turn over to a responsible agent Schedule II medications and prescription medications currently being administered. The facility may send nonprescription medications with the child as needed. The facility shall document in the child's file:

a. The name, strength, dosage form, and quantity of each medication.

b. The signature of the facility staff person who turned over the medications to the responsible agent.

c. The signature of the responsible agent receiving the medications.

114.12(10) *Unused prescription drugs.* Unused prescription drugs prescribed for residents may not be kept at the facility for more 15 days after the resident has left the facility. The unused prescription drugs shall be destroyed by the facility executive director or the executive director's designee in the presence of at least one witness. Outdated, discontinued, or unusable nonprescription medications shall also be destroyed in a similar manner. The person destroying the medication shall document:

a. The resident's name.

b. The name, strength, dosage form, and quantity of each medication.

c. The date the medication was destroyed.

d. The names and signatures of the witness and staff person who destroyed the medication.

114.12(11) *Refills.* Prescriptions shall be refilled only with the permission of the prescriber authorized under Iowa law.

114.12(12) *Use of medications.* No prescription medications prescribed for one resident may be administered to or allowed in the possession of another resident.

114.12(13) *Order of authorized prescriber.* No prescription medication may be administered to a resident without the order of an authorized prescriber.

114.12(14) *Patient reaction.* Any unusual patient reaction to a drug shall be reported to the attending physician or prescriber immediately.

114.12(15) *Dilution or reconstitution of drugs.* Dilution or reconstitution of drugs and their labeling shall be done only by a licensed pharmacist.

114.12(16) *Administration of drugs.* Medications shall be administered only in accordance with the instructions of the attending physician or authorized prescriber. Medications shall be administered only by staff who have completed a medication management course. The type and amount of the medication, the time and date, and the staff member administering the medication shall be documented in the child's record.

114.12(17) *Self-administration of drugs.* There shall be written policy and procedures relative to self-administration of prescription medications by residents and only when:

a. Medications are prescribed by a physician or other authorized prescriber.

b. The physician or authorized prescriber provides written approval that the patient is capable of participating and can self-administer the drug.

c. What is taken and when is documented in the record of the child.

114.12(18) *Obtaining nonprescription medications.* Facilities shall maintain a supply of standard nonprescription medications for use for children residing at the facility. Examples of standard nonprescription medications include cough drops and cough syrups, aspirin substitutes and other pain control medication, poison antidote, and diarrhea control medication.

a. All nonprescription medications kept on the premises for the use of residents shall be preapproved annually by a licensed pharmacist or an authorized prescriber.

b. Facilities shall maintain a list of all preapproved nonprescription medications. The list shall indicate standard uses, standard dosages, contraindications, side effects, and common drug interaction warnings. The facility administrator or the administrator's designee shall be responsible for determining the scope of the list and brands and types of medications included.

c. Only nonprescription medications on the preapproved list shall be available for use. However, the facility administrator or the administrator's designee, in consultation with an authorized prescriber or licensed pharmacist, may approve use of a nonprescription medication that is not on the preapproved list for a specific child.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.13(237) Children's rights.

114.13(1) *Policies in writing.* All policies and procedures covered in this rule shall be in writing and provided to the child and parents or guardian upon the child's admission to the facility. The rationale and circumstances of any deviation from these policies shall be discussed with the child's parents or guardian and the referring worker, documented, and placed in the child's case record.

114.13(2) *Confidentiality.* Information regarding children and their families shall be kept confidential and released only with proper written authority.

114.13(3) *Communication.*

a. Visitation shall be allowed with members of the child's immediate family unless otherwise regulated by the court.

b. Visits shall be allowed with other significant persons.

c. Consideration shall be given to privacy for family visits.

d. The child shall be permitted to communicate with legal counsel and the referring worker.

e. The child shall be allowed to conduct private telephone conversations with family members. Incoming calls may be screened by staff to verify the identity of the caller before approval is given.

f. The child shall be allowed to send and receive mail unopened unless contraindicated. Contraindications, except those listed below, should be documented in the child's file. The facility may require the child to open incoming mail in the presence of a staff member when it is suspected to contain contraband articles, or when there is money that should be receipted and deposited.

g. When limitations on visitation, calls or other communications are indicated, they shall be determined with the participation or knowledge of the child, family or guardian, and the referring worker. All restrictions shall have specific bases which shall be made explicit to the child and family and documented in the child's case record.

114.13(4) *Privacy.* Reasonable provisions shall be made for the privacy of residents.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.14(237) Personal possessions.

114.14(1) *Belongings.* A facility shall allow a child in care to bring personal belongings and to acquire belongings in accordance with the child's service plan. However, the facility shall, as necessary, limit or supervise the use of these items while the child is in care.

114.14(2) *Clothing.* A facility shall ensure that each child in care has adequate, clean, well-fitting, attractive, and seasonable clothing as required for health, comfort, and physical well-being. The clothes should be appropriate to age, sex and individual needs.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.15(237) Religion—culture.

114.15(1) *Facility orientation.* A facility shall have a written description of its religious orientation, particular religious practices that are observed, and any religious restrictions. This description shall be provided to the child, the parent(s) or guardian, and the placing agency at the time of admission.

114.15(2) *Child participation.* When a facility accepts a child, the child shall have the opportunity to participate in religious activities and services in accordance with the child's own faith or that of the child's parent(s) or guardian. The facility shall, when necessary and reasonable, arrange transportation for religious activities. Wherever feasible, the child shall be permitted to attend religious activities and services in the community.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.16(237) Work or vocational experiences.

114.16(1) *Written description.* The facility shall have a written statement of any work and vocational experiences available to children.

114.16(2) *Program component.* Work as part of the program shall be identified in the child's case plan.

114.16(3) *Self-care.* Ordinary self-care and self-sufficiency tasks are not considered work.

114.16(4) *Purpose.* Work shall be in the child's interest, within the child's ability, with payment where appropriate, and never solely in the interest of the facility's goals or needs.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.17(237) Family involvement. There shall be written policies and procedures for family involvement that shall encourage continued involvement of the family with the child.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.18(237) Children's money.

114.18(1) *Treatment of funds.* Money earned, received as a gift, or as an allowance by a child in care shall be deemed to be that child's personal property.

114.18(2) *Limitations.* The facility shall have a written policy on limitations on the child's use of funds.

114.18(3) *Records.* The facility shall maintain a separate accounting system for children's money.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.19(237) Child abuse. Written policies shall prohibit mistreatment, neglect, or abuse of children and specify reporting and enforcement procedures for the facility. Alleged violations shall be reported immediately to the director of the facility and the department of human services centralized abuse hotline. Any employee found to be in violation of Iowa Code chapter 232, subchapter III, part 2, as substantiated by the department of human services' investigation shall be subject to the agency's policies concerning dismissal.

[**ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.20(237) Discipline.

114.20(1) *Generally.* The facility shall have written policies regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep. Discipline shall not be used for anyone other than a child whose actions resulted in consequences. Group discipline shall not be used because of actions of an individual child or other children.

114.20(2) *Corporal punishment prohibited.* The facility shall have a policy that clearly prohibits staff or the children from utilizing corporal punishment as a method of disciplining or correcting children. This policy is to be communicated, in writing, to all staff of the facility.

114.20(3) *Physical restraint.* The use of physical restraint shall be employed only to prevent the child from injury to self, to others, or to property. Physical restraint must be conducted with the child in a standing position whenever possible. Each child has the right to be free from restraint and seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation.

a. No staff person shall use any restraint that obstructs the airway of a child.

b. Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.

c. If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have the child's hands free of restraint for brief periods unless the staff person determines that such freedom appears likely to result in harm to the child, others, or property.

d. The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly documented in the child's record by the responsible staff persons no later than the end of the shift in which the restraint was used.

e. Documentation of restraint use shall include, but need not be limited to, the following:

(1) Each use of restraint or control room.
(2) The time the intervention began and ended.
(3) The reason that required the resident to be restrained or put in a control room.
(4) The name of staff involved in the intervention.

114.20(4) *Other restraints and control room.* Only comprehensive residential facilities may use a control room, locked cottages, or mechanical restraints.

114.20(5) *Behavior expectations.* The facility shall make available to the child and the child's parents or guardian written policies regarding the following areas:

a. The general expectation of behavior including the facility's rules and practices.
b. The range of reasonable consequences that may be used to deal with inappropriate behavior.

114.20(6) *Time out.*

a. A resident in time out must never be physically prevented from leaving the time out area.
b. Time out may take place away from the area of activity or from other residents, such as in the resident's room, or in the area of activity of other residents.
c. Staff must monitor the resident while the resident is in time out.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.21(237) Illness, accident, death, or unauthorized absence from the facility.

114.21(1) *Notification of illness.* A facility shall notify the child's parent(s), guardian and responsible agency of any serious illness, incident involving serious bodily injury, circumstances causing removal of the child from the facility, or elopement.

114.21(2) *Notification of death.* In the event of the death of a child, a facility shall notify immediately the physician, the child's parent(s) or guardian, the placing agency, and the appropriate state authority. The agency shall cooperate in arrangements made for examination, autopsy, and burial.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.22(237) Records. In the event of closure of a facility, children's records shall be sent to the department of human services for retention according to the department's records retention policy or the period defined in the department's contract for services, whichever is longer.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.23(237) Unannounced visits.

114.23(1) Frequency.

a. *Time.* At least one annual unannounced visit shall occur during periods of the day when the child would normally be in the facility and awake.
b. *Activities.* The visit shall include an assessment of, but not be limited to, the following areas:
(1) Interaction between the staff and child.
(2) Interaction between the children.
(3) Discussion with the child about experiences in the facility.
(4) A check on any previously cited deficiencies.
(5) Overall impression of the facility.
(6) Staff record checks.
c. *Recommendation.* The licensing staff shall recommend follow-up when needed.

114.23(2) Visits at other times may occur as a result of a self-reported incident or specific complaint.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.24(237) Record check information. Record checks are required for any entity being considered for licensure or employment by a licensee on a facility campus where children reside to determine whether any founded child abuse reports or criminal convictions exist or whether the entity has been placed on a sex offender registry. The facility shall not employ any person who has been convicted of a crime involving the mistreatment or exploitation of a child. The facility shall not

employ any person who has a record of a criminal conviction or founded child abuse report unless the department has evaluated the crime or abuse and determined that the crime or abuse does not merit prohibition of licensure, volunteering or employment.

114.24(1) *Procedure.* Each entity being considered for licensure or employment shall be checked for all of the following:

a. Records with the Iowa central abuse registry, using the request for child and dependent adult abuse information form;

b. Records with the Iowa division of criminal investigation, using the department's criminal history record check form;

c. Records with the Iowa sex offender registry;

d. Records with the child abuse registry of any state where the person has lived during the past five years; and

e. Fingerprints provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check. Fingerprinting, for the purpose of a national criminal history check, is required for all entities considered for licensure or employment by a licensee on a facility campus where children reside.

114.24(2) *Evaluation of record.* If an entity for which a background check is required has a record of founded child or dependent adult abuse, a criminal conviction, or placement on a sex offender registry, the department shall prohibit licensure or employment unless an evaluation determines that the abuse, criminal conviction, or placement on a sex offender registry does not warrant prohibition.

a. Scope. The evaluation shall consider the nature and seriousness of the founded child or dependent adult abuse or criminal conviction report in relation to:

(1) The position sought or held,

(2) The time elapsed since the abuse or crime was committed,

(3) The circumstances under which the abuse or crime was committed,

(4) The degree of rehabilitation,

(5) The likelihood that the person will commit the abuse or crime again, and

(6) The number of abuses or crimes committed by the person.

b. Evaluation form. The person with the founded child or dependent adult abuse or criminal conviction report shall complete and return the department's record check evaluation form within ten calendar days of the date of receipt to be used to assist in the evaluation.

114.24(3) *Evaluation decision.* The department shall conduct the evaluation and make the decision of whether or not the founded child or dependent adult abuse or criminal conviction warrants prohibition of licensure or employment by a licensee. The department shall issue a notice of decision in writing to the requesting entity. The requesting entity is responsible for providing a copy of the notice to the prospective employee. Record check evaluations are valid for 30 days from the date the notice of decision is issued.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

441—114.25(237) Standards for private juvenile shelter care and detention homes. The standards of 441—Chapter 105 shall be used as the basis for licensing private juvenile shelter care and detention homes. These homes are not required to meet other standards of 441—Chapter 114.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6962C**, IAB 4/5/23, effective 6/1/23]

These rules are intended to implement Iowa Code section 237.3.

[Filed 8/27/81, Notice 7/8/81—published 9/16/81, effective 11/1/81]
[Filed 2/26/82, Notice 10/28/81—published 3/17/82, effective 5/1/82]
[Filed 12/17/82, Notice 10/13/82—published 1/5/83, effective 2/9/83]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]
[Filed emergency 2/16/95 after Notice 12/7/94—published 3/15/95, effective 2/16/95]
[Filed 10/15/97, Notice 7/30/97—published 11/5/97, effective 1/1/98]
[Filed 3/8/00, Notice 1/26/00—published 4/5/00, effective 6/1/00]
[Filed 3/14/07, Notice 8/30/06—published 4/11/07, effective 7/1/07]
[Filed ARC 9488B (Notice ARC 9368B, IAB 2/9/11), IAB 5/4/11, effective 7/1/11]
[Filed ARC 2743C (Notice ARC 2652C, IAB 8/3/16), IAB 10/12/16, effective 12/1/16]
[Filed ARC 3185C (Notice ARC 3040C, IAB 4/26/17), IAB 7/5/17, effective 9/1/17]
[Filed ARC 4793C (Notice ARC 4629C, IAB 8/28/19), IAB 12/4/19, effective 1/8/20]
[Filed ARC 6962C (Notice ARC 6837C, IAB 1/25/23), IAB 4/5/23, effective 6/1/23]
[Filed ARC 0109D (Notice ARC 9845C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTER 115
LICENSING AND REGULATION OF COMPREHENSIVE RESIDENTIAL FACILITIES FOR CHILDREN

[Prior to 7/1/83, Social Services[770] Ch 115]
[Prior to 2/11/87, Human Services[498]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

441—115.1(237) Applicability. This chapter relates specifically to the licensing and regulation of comprehensive residential care facilities. Refer to 441—Chapter 112 for the basic licensing and regulation of all foster care facilities and 441—Chapter 114 for definitions and minimum standards for all group living foster care facilities.

This rule is intended to implement Iowa Code chapter 237.

441—115.2(237) Definitions.

"Comprehensive residential facility" means a facility which provides care and treatment for children who are unable to live in a family situation due to social, emotional, or physical disabilities and who require varying degrees of supervision as indicated in the individual service plan. Care includes room and board. Services include the internal capacity for individual, family, and group treatment. These services and others provided to the child shall be under the administrative control of the facility. Community resources may be used for medical, recreational, and educational needs. Comprehensive residential facilities have higher staff to client ratios than community residential facilities and may use control rooms, locked cottages, and mechanical restraints when these controls meet licensing requirements.

"Locked cottage" means an occupied comprehensive residential facility or an occupied unit of a comprehensive residential facility which is physically restrictive because of the continual locking of doors to prevent the children in care from leaving the facility.

"Protective locked environment" means the same as defined in Iowa Code section 237.1(17).

"Secure facility" means any comprehensive residential facility which employs, on a regular basis, locked doors or other building characteristics intended to prevent children in care from leaving the facility without authorization. Secure facilities may only be used for children who have been adjudicated delinquent or placed pursuant to provisions of Iowa Code chapter 229.

This rule is intended to implement Iowa Code chapter 237.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—115.3(237) Information upon admission. In addition to the requirements in 114.9(4)*"b,"* parents or guardians shall be provided with information on conditions for the use of restraints.

This rule is intended to implement Iowa Code section 237.3.

441—115.4(237) Staff.

115.4(1) *Number of staff.*

a. The number and qualifications of the staff will vary depending on the needs of the children. There shall be at least a one to eight staff-to-child ratio at all times children are awake and present in the facility and during supervised outings.

b. A staff person shall be in each living unit at all times when children are in residence.

115.4(2) *Staff duties.*

a. A casework supervisor shall provide:

(1) One hour per week per caseworker of in-person case specific supervision.

(2) On-site supervision at least monthly.

(3) Additional contact as needed with each caseworker in other related duties including case intake discussions, staffings of cases, evaluations of the caseworker, teaching, and administrative duties.

b. Casework staff shall:

(1) Provide at least weekly group or individually scheduled in-person conferences with each resident for whom the caseworker is responsible. More frequent in-person contact shall be provided if required in the service plan.

(2) Provide a supportive and therapeutic atmosphere for the child.

(3) Select and employ appropriate treatment approaches to different types of children.

This rule is intended to implement Iowa Code section 237.3.

[**ARC 9488B**, IAB 5/4/11, effective 7/1/11; **ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6963C**, IAB 4/5/23, effective 6/1/23]

441—115.5(237) Casework services. The facility shall have the internal capacity to provide individual, family and group counseling and shall provide, but not be limited to, casework dealing with crisis intervention, daily living skills, peer relationships, future planning and preparation for discharge.

This rule is intended to implement Iowa Code section 237.3.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6963C**, IAB 4/5/23, effective 6/1/23]

441—115.6(237) Restraints.

115.6(1) *Protective locked environment facilities.* Physical restraints and a control room are permitted in protective locked environment facilities.

115.6(2) *Secure facilities.* Secure facilities may use physical restraints, a control room, locked cottages, and mechanical restraints.

115.6(3) *Written policies.* A facility that uses restraints shall have a written policy on their use. This policy shall include:

a. A statement specifically identifying each form of restraint in use at the facility.

b. Criteria for use of each form of restraint.

c. Identification of staff or licensed professionals authorized to approve and use each form of restraint.

d. Requirement for documentation in the child's individual case file.

e. Procedures for application or administration of each form of restraint.

f. Maximum time limit for use of restraints.

115.6(4) *Use of restraint.*

a. A facility shall not use, apply, or administer restraint in any manner which causes physical injury.

b. A facility shall not use restraint as a disciplinary or punitive measure, for staff convenience, as a preventive measure, or as a substitute for programming.

c. A secure facility which uses restraint permitted by licensing standards, other than physical restraint, shall ensure that all direct service staff are adequately trained in the following areas:

(1) The appropriate use and application or administration of each permitted form of restraint.

(2) The facility's policies and procedures related to restraint.

(3) Crisis management techniques.

d. A secure facility shall continually review any use of a restraint on a child, other than physical restraint.

e. A facility shall release the child from restraint immediately when the situation precipitating restraint no longer exists.

This rule is intended to implement Iowa Code section 237.4.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6963C**, IAB 4/5/23, effective 6/1/23; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—115.7(237) Control room.

115.7(1) *Purpose.* The control room shall be used for treatment purposes only. A facility shall be approved by the licensing authority as meeting the requirements of this chapter regarding control rooms before control rooms can be utilized.

115.7(2) *Written policies.* When a comprehensive residential facility uses a control room as part of its treatment program, the facility shall have written policies regarding its use. The policy shall:

a. Specify the types of behavior which may result in control room placement.

b. Delineate the staff members who may authorize its use as well as procedures for notification of supervisory personnel.

c. Require documentation in writing of the types of behaviors leading to control room placement and the conditions that will allow the child to return to the living unit. The child shall be informed of these conditions. Documentation of control room use shall include, but not be limited to, the following:

(1) Each use of the control room.

(2) The time the intervention began and ended.

(3) The reason that required the resident to be put in the control room.

(4) The name(s) of staff involved in the intervention.

d. Limit the utilization of the control room to one of the following two circumstances:

(1) The child's service plan includes and explains how this use of the control room fits into the service plan for the child.

(2) A one-time placement in an emergency without a service plan outlining the rationale for its use. This treatment shall be included in the service plan for a second placement of a child in the control room.

115.7(3) *Physical requirements.* The control room shall be designed to ensure a physically safe environment with:

a. All switches controlling lights and ventilation outside the room.

b. Allowance for observation of the child at all times.

c. Protected recessed ceiling light.

d. No electrical outlets in the room.

e. Proper heating, cooling, and ventilation.

f. Any window secured and protected in a manner to prevent harm to the child.

g. A minimum of 54 square feet in floor space with at least a 7-foot ceiling.

115.7(4) *Use of control room.* The control room shall be used only when a less restrictive alternative to quiet the child or allowing the child to gain control has failed and when it is in the service plan. The following policies shall apply to the use of the control room:

a. No more than one child shall be in a control room at any time.

b. There shall be provisions for visual observation of the child at all times, regardless of the child's position in the room.

c. The control room shall be checked thoroughly for safety and the absence of contraband prior to placing the child in the room.

d. The child shall be thoroughly checked before placement in the control room and all potentially injurious objects removed including shoes, belts, and pocket items. The staff member placing the child in the control room shall document each check.

e. In no case shall all clothing or underwear be removed and the child shall be provided sufficient clothing to meet seasonal needs.

f. A staff member shall always be positioned outside of the control room. Visual and auditory observations of the child's behavior and condition shall be recorded at five-minute intervals, and a complete written report shall be documented in the child's file by the end of the staff person's work shift.

g. The child shall remain in the control room longer than one hour only with consultation and approval from the authorized staff or licensed professional. Documentation in the child's case record shall include the time in the control room, the reasons for the control, and the reasons for the extension of time. Use of the control room for a total of more than 12 hours in any 24-hour period shall occur only after authorization of the psychiatrist or upon court order. In no case shall a child be in a control room for a period longer than 24 hours.

h. The child's parents or guardian and the referring worker shall be aware of the control room as a part of the treatment program.

This rule is intended to implement Iowa Code section 237.4.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20; **ARC 6963C**, IAB 4/5/23, effective 6/1/23; **ARC 0109D**, IAB 3/4/26, effective 5/1/26]

441—115.8(237) Locked cottages.

115.8(1) *Approval.* A facility shall be approved by the licensing authority as meeting the requirements of this chapter regarding locked cottages before locked cottages can be operated.

115.8(2) *Nighttime staff.* Awake nighttime staff is required in each locked cottage.

115.8(3) *Policies.* Licensees utilizing a locked cottage shall have and follow written policies for the locked cottage. The policies shall be provided to the child, the child's parents or guardian and, when the child has an attorney, the child's attorney at the time of admission. The policies shall include:

a. The type of behavior which may result in locked cottage placement.

b. The staff members who may authorize placement in the locked cottage as well as procedures for notification of supervisory personnel.

c. Requirements for documentation in writing of particular behaviors of a particular child that led to the placement.

d. Requirement for documentation of the conditions that will allow the child to return to an unlocked cottage. These conditions shall be shared with the child.

e. Requirement for documentation of the use of the locked cottage as a part of the treatment plan for a specific child.

f. Specific policies as to the length of stay in the locked cottage.

g. Requirements for notification of the child's parents or guardian, the court, and the referring agency of a child's placement in the locked cottage.

h. Requirement for written documentation of placements in the locked cottage in the child's case record.

This rule is intended to implement Iowa Code section 237.4.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—115.9(237) Mechanical restraint. When a facility uses mechanical restraints as a part of its treatment program, the facility shall have and follow written policies regarding their use. These policies shall be approved by the licensor prior to their use. The policies shall be available to clients, parents or guardians, and referral sources at the time of admission. Policies shall also be available to staff.

115.9(1) *Restrictions on mechanical restraints.*

a. Mechanical restraints shall not inflict physical injury.

b. Each use of mechanical restraint shall be authorized by the administrator or case supervisor.

c. Each authorization of mechanical restraint shall not exceed one hour in duration.

d. No child shall be kept in mechanical restraint for more than two hours in a 12-hour period.

e. Any time that a child is placed in mechanical restraint a staff person shall be assigned to monitor the placement with no duties other than to ensure that the child's physical needs are properly met. The staff person shall remain in continuous auditory and visual contact with the child.

f. Each child shall be released from mechanical restraint as soon as the restraints are no longer needed.

115.9(2) *Continued use of mechanical restraints.* When a child requires mechanical restraint on more than four occasions during any 30-day period, the facility shall hold an immediate emergency meeting to discuss the appropriateness of the child's continued placement at the facility.

115.9(3) *In transporting children.* Notwithstanding paragraph 115.9(1)*"d,"* mechanical restraint of a child in case of a secure facility while that child is being transported to a point outside the facility is permitted when there is a serious risk of the child exiting the vehicle while the vehicle is in motion. The facility shall place a written report on each use in the child's case record. This report shall

document the necessity for the use of restraint. Seat belts are not considered mechanical restraints. Agency policies should encourage the use of seat belts while transporting children and comply with Iowa law.

This rule is intended to implement Iowa Code section 237.4.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—115.10(237) Restraint and control room use debriefing.

115.10(1) *Initial discussion.* Within a short time after the use of the restraint or control room, staff involved in an intervention and the resident must have a face-to-face discussion except when the presence of a particular staff person may jeopardize the well-being of the resident.

a. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s).

b. The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of the restraint or control room and strategies to be used by the staff, the resident, or others that could prevent the future use of the restraint or control room.

115.10(2) *Staff discussion.* Within 24 hours after the use of the restraint or control room, all staff involved in the intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of the intervention including, but not limited to, the following:

a. The emergency safety situation that required the intervention, including discussion of the precipitating factors that led up to the intervention;

b. Alternative techniques that might have prevented the use of the restraint or control room;

c. The procedures, if any, that staff are to implement to prevent any recurrence of the use of the restraint or control room; and

d. The outcome of the intervention, including any injuries that may have resulted from the use of the restraint or control room.

115.10(3) *Documentation.* Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, the names of staff who were excused from the debriefing, and any reasons that are applicable.

This rule is intended to implement Iowa Code section 273C.3.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

441—115.11(237) Chemical restraint. Chemical restraint shall not be utilized in a comprehensive residential facility and each comprehensive residential facility shall have written policies that clearly prohibit the use of chemical restraint.

This rule is intended to implement Iowa Code section 273C.3.

[**ARC 4793C**, IAB 12/4/19, effective 1/8/20]

[Filed 8/27/81, Notice 7/8/81—published 9/16/81, effective 11/1/81]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed ARC 9488B (Notice ARC 9368B, IAB 2/9/11), IAB 5/4/11, effective 7/1/11]
[Filed ARC 4793C (Notice ARC 4629C, IAB 8/28/19), IAB 12/4/19, effective 1/8/20]
[Filed ARC 6963C (Notice ARC 6838C, IAB 1/25/23), IAB 4/5/23, effective 6/1/23]
[Filed ARC 0109D (Notice ARC 9845C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTERS 123 and 124
Reserved

CHAPTER 125
KINSHIP FOSTER CARE APPROVAL STANDARDS

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/1/31

441—125.1(237) Definitions.

"Approval" means the authorization granted to a kinship caregiver by the department through an expedited process to provide child foster care and allows the kinship caregiver to receive maximum financial support and to obtain the information and resources necessary to meet the needs of a child under a court-ordered placement with the kinship caregiver.

"Approved kinship caregiver" means a kinship caregiver granted approval for kinship foster care.

"Child," for the purpose of this chapter, only means the child or children who are in foster care.

"Consanguinity" means relatives who share a common biological ancestor with the child.

"Corporal punishment" means the intentional physical punishment of children.

"Fictive kin" means an adult person who is not a relative of a child but who has an emotionally significant and positive relationship with a child or the child's family.

"Kinship care" means the care of a child by a relative or fictive kin providing full-time nurturing and protection.

"Kinship foster care" means an expedited process to approve a kinship caregiver for foster care through providing the necessary information, resources, and maximum financial support to the caregiver to meet the needs of the child court ordered to placement in the caregiver's care.

"Kinship foster caregiver" means a relative or fictive kin providing care for a child who is approved for kinship foster care.

"Reasonable and prudent parent standard" means the same as defined in Iowa Code section 237.1.

"Recruitment and retention contractor" means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents or any of its subcontractors.

"Relative" means an individual related to the child within the fourth degree of consanguinity or affinity, by marriage, or through adoption. This includes the parent of a sibling of the child if the sibling's parent's parental rights were not previously terminated in relation to the child.

"Service area manager" means the department employee responsible for managing department offices and personnel within the service area and for implementing policies and procedures of the department.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.2(237) Application for approval.

125.2(1) *Right to apply.* A relative or fictive kin of a child who has been court-ordered to placement in the relative or fictive kin's care can apply for kinship foster care approval. All applicants must be at least 18 years of age.

125.2(2) *Referrals.* A relative or fictive kin caregiver wishing to apply for kinship foster care approval shall be referred by the department or the department's contractor for kinship navigator services. The department's recruitment and retention contractor in the applicable service area shall provide the application packet and assist in completing the approval process with the applicant.

125.2(3) *Decision to operate a kinship foster home.* When an applicant decides to operate a kinship foster family home, the applicant shall complete the Kinship Foster Care Approval Application.

125.2(4) *Withdrawal of an application.* The applicant shall report the withdrawal of an application promptly to the department.

125.2(5) *Evaluation of the application.* Each application will be evaluated by the department to ensure that all standards are met.

a. Before it results in adverse action, a founded child abuse report of a kinship foster parent applicant will be evaluated by the department to determine if the founded abuse merits prohibition of approval.

b. The department will evaluate founded child abuse reports on a case-by-case basis. Considerations the department will take include but are not limited to whether the abuse was an isolated incident or is symptomatic of a broader, systemic problem.

125.2(6) *Reports and information.* The applicant shall furnish all requested reports and information relevant to the approval determination to the department.

125.2(7) *Applications for reapproval.* The department or its agent will send an application for reapproval 90 days before the approval expires. Applications for reapproval shall be made on the form specified in subrule 125.2(3).

a. Applications for reapproval shall be made no less than 30 days but no more than 90 days before the approval expires.

b. Applications for reapproval of a kinship foster family approval shall be submitted to the recruitment and retention contractor.

c. The department will approve or deny an application for reapproval as described in rules 441—125.3(237) and 441—125.4(237).

125.2(8) *Notification.* The department will notify an applicant of the approval or denial of an initial application within 60 days of the date that the applicant is referred to the recruitment and retention contractor. The department will notify an applicant regarding reapproval within 30 days of the expiration of the initial approval.

125.2(9) *Approval.* Approved kinship foster caregiver applicants will be approved for a term of two years.

a. Thereafter, the caregiver shall apply for reapproval every two years based on the requirements of subrule 125.2(7).

b. A new notice of approval is required any time the caregiver moves to a new home.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.3(237) Denial.

125.3(1) The department will deny the Kinship Foster Care Approval Application when:

a. The applicant, or any person residing in the home other than a foster child, has been convicted of a crime unless the department has evaluated the crime and concluded that the crime does not merit prohibition of approval.

b. The applicant, or any person residing in the home other than a foster child, has a record of founded child abuse unless the department has evaluated the founded abuse and concluded that the abuse does not merit prohibition of approval.

c. There is just cause due to a condition or combination of conditions that cannot be improved and prevents the kinship caregiver from caring for the child's physical, emotional, medical, or educational needs.

125.3(2) Reapplications shall be denied based on the same criteria as initial applications.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.4(237) Approval procedure.

125.4(1) *Application.* Applicants for an initial approval to become a kinship foster home shall submit the Kinship Foster Care Approval Application forms directed in rule 441—125.2(237).

125.4(2) *Record checks.* Prior to approval of an application for kinship foster care, applicants shall pass the record check procedures identified in rule 441—125.7(237).

125.4(3) *Home study.* The recruitment and retention contractor shall complete a kinship foster care home study.

a. Process. Information for the home study is gathered primarily through a face-to-face interview with the identified kinship caregiver(s) in the home. Tribal agencies may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C. §671(a)(26)(B)

as amended to August 1, 2025, provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.

(1) The contractor shall hold at least one face-to-face interview with the applicant(s) with one of the interviews taking place in the applicant's home.

(2) A physical assessment of the home is required. The contractor shall use a Kinship Foster Care Home Study form to assess the physical structure of the home to verify it is safe for the child.

b. Caregiver assessment. The kinship caregiver shall be assessed to evaluate the caregiver's ability to meet the needs of the court-ordered placed child. The assessment will include the following criteria:

(1) The applicant's ability to provide for the child's physical, medical, and emotional needs; to respect the child's ethnic and religious identity; and to support the child's overall well-being.

(2) The safety of the child in relation to any animals that live on the applicant's property.

(3) Knowledge of the child's situation, the caregiver's relationship with the child, the child's family and knowledge of the child's situation and department involvement.

(4) Agreement to abstain from using physical forms of discipline.

(5) Understanding of the reasonable and prudent parenting standard and how to successfully apply the standard.

(6) The caregiver's willingness to access resources and additional supports needed for placement stability to meet the needs of their family and the child placed in their care.

(7) The caregiver's and other household members' current health status, including current prescription medications.

(8) The caregiver's previous or current challenges with mental health, substance use or both and the potential impact it may have on the caregiver's ability to care for the child.

(9) Assessment of whether previous violence was experienced in the caregiver's home and how it has been addressed.

(10) The caregiver's willingness and ability to ensure the child's attendance at school; appointments for medical, dental, and vision; activities; and to ensure family interactions with parents and siblings.

(11) Assessment of the caregiver's ability and willingness to commit to the child, to work with the department, and to be considered as a long-term permanency option.

(12) Understanding of household composition, who has access to the child, other adults and children in the household, relationship status of household members and family dynamics.

(13) Description of the caregiver's available formal and informal supports to ensure child safety and well-being.

c. Physical home assessment. The physical home assessment shall assess the following areas of the applicant's home and address necessary steps to mitigate concerns when identified:

(1) General description of the dwelling, including the number of bedrooms, bathrooms, and shared areas of the home.

(2) Determination of any signs of home infestation by rodents, insects, or other pests.

(3) Existence of external hazards, such as accessibility of pools/hot tubs, nearby bodies of water, railroad tracks, waste materials, or contaminated water.

(4) Existence of internal hazards that pose a risk of harm created by the physical structure of the home, such as broken or missing stairs, exposed wires, large holes in the floor, broken windows, or other physical hazards.

(5) Accessibility of hazardous materials or items in the home or on the property and the means to make them inaccessible to the child in an age-appropriate way or used with appropriate supervision.

(6) Evaluation of a child's access to the following:

1. Firearms and projectile weapons.
2. Medications.
3. Strong or toxic chemicals, such as detergents, bleach, and gasoline.
4. Tools, machinery, farm equipment, lawn mowers, and trampolines.

5. Potable water.

(7) Evaluation of the sleeping arrangements for children placed in the home, including:

1. Planned sharing of sleeping spaces.
2. Where children will have privacy to change clothes.
3. If supports are needed to provide beds, bedding, or establish opportunities for privacy.
4. Discussion of safe sleeping practices for children aged one and younger.

(8) Ability to ensure the child's access to age-appropriate personal hygiene (bathing, brushing teeth, wearing clean clothing).

(9) Ability to protect the child in an age-appropriate manner from pets or animals.

(10) Age-appropriate safe seat restraints (car seat, seatbelt, etc.) in personal vehicles used to transport the child.

(11) Ability to provide the child ongoing access to adequate, nutritious, age-appropriate food, including the ability to keep perishable items cold.

(12) Understanding of the child's dietary needs related to cultural/religious traditions, medical needs, and allergies.

(13) A plan for fire safety, including an escape plan and smoke detectors.

(14) Ability to create a safety plan that includes the ability to contact emergency services for assistance within a reasonable distance (neighbor's home, local business, etc.)

(15) Description of support mechanisms needed for the caregiver to address any barriers to meeting the physical needs of the home to ensure the safety and well-being of the child and steps taken to address the needs during the approval process.

d. Written report. The recruitment and retention contractor shall prepare a written report of the caregiver assessment. This assessment shall include a recommendation for approval or denial of the application and any other pertinent information in making the recommendation. The home study shall be maintained in the kinship caregiver's record maintained by the department.

125.4(4) *Decision and notice of action.* The department will use the home study and the recommendation of the recruitment and retention contractor to approve or deny a caregiver for kinship foster care.

a. The department will notify the family of the decision in writing.

b. If the department does not approve the home study, a notice will be issued according to the provisions of 441—Chapter 16 and state the reasons for that decision as listed in rule 441—125.3(237).

c. A denial may be appealed pursuant to the provisions set forth in 441—Chapter 7.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.5(237) Involvement of kin.

125.5(1) *Support by kinship foster caregiver.* Kinship foster caregivers shall support the involvement of biological or adoptive parents and other relatives of the child unless this involvement is evaluated and documented by the department to be detrimental to the child's well-being.

125.5(2) *Nature of involvement.* The extent and nature of the involvement of the biological or adoptive parents and other relatives shall be determined by the caseworker in consultation with the kinship foster caregivers, biological or adoptive parents, and other members involved with the child and family.

125.5(3) *Cultural connections.* Throughout the provision of care, the kinship foster caregiver shall actively ensure that the child stays connected to the child's kin, culture, and community as required in the child's case permanency plan.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.6(237) Information on the child placed in the home.

125.6(1) *Information about the child.* Kinship foster caregivers shall maintain a separate file of information on the child placed in the home to include contact information for all medical, dental, vision, hearing and mental health professionals for the child; current medications for the child; school

reports and school pictures received; and the date, name, address and phone number of the person to whom the child was discharged at the end of placement. This file shall be provided to the department or the child's parent or guardian when the child leaves the placement.

125.6(2) *Confidentiality.* Kinship foster caregivers shall maintain confidentiality regarding the child in their placement, except as required to comply with rules on mandatory reporting of child abuse and with the child's case permanency plan. Kinship foster caregivers shall not without parent, guardian and department consent post pictures or information concerning the child on any internet website.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.7(237) Record checks. Record checks are required for each foster parent applicant and for anyone who is 18 years of age or older living in the home of the applicant. The purpose of the record checks is to determine whether any of these persons has any founded child abuse or dependent adult abuse reports or criminal convictions or has been placed on the sex offender registry.

125.7(1) *Procedure.* The department's contractor for recruitment and retention shall assist applicants in completing required record checks, including fingerprinting.

125.7(2) *Iowa records.* Each applicant and anyone who is 18 years of age or older living in the home of the applicant shall be checked for records with:

a. The Iowa central abuse registry;

b. The Iowa division of criminal investigation;

c. The Iowa sex offender registry; and

d. Iowa Courts Online.

125.7(3) *Other records.* Each applicant and any other adult living in the household shall also be checked for records on the child abuse registry of any state where the person has lived during the past five years. Each adult age 18 years of age or older shall also be fingerprinted for a national criminal history check.

125.7(4) *Evaluation of record.* If the applicant or anyone living in the home has a record of founded child or dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the department will not approve the applicant for kinship foster care unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

125.7(5) *Exclusion.* An evaluation will not be performed if the person has been convicted of:

a. A felony offense as set forth in Iowa Code section 237.8(2)*"a"*(3); or

b. A crime in another state that would be a felony as set forth in Iowa Code section 237.8(2)*"a"*(3).

125.7(6) *Scope.* The evaluation will consider the nature and seriousness of the founded child or dependent adult abuse or crime in relation to:

a. The position sought or held;

b. The time elapsed since the abuse or crime was committed;

c. The circumstances under which the crime or founded abuse was committed;

d. The degree of rehabilitation;

e. The likelihood that the person will commit the abuse or crime again; and

f. The number of abuses or crimes committed by the person.

125.7(7) *Evaluation form.* The person with the founded child or dependent adult abuse or criminal conviction report shall complete and return to the department the Record Check Evaluation Form, within ten calendar days of the date of receipt, to be used to assist in the evaluation. Failure of the person to complete and return the Record Check Evaluation Form to the department within the specified time frame shall result in denial of approval.

125.7(8) *Evaluation decision.* Centralized service area staff or designees will conduct the evaluation and make the decision. The department will inform the subject of the decision and describe the basis of the decision using the criteria specified in subrule 125.7(6). The department will send the form to the person on whom the evaluation was completed:

a. Within 30 days of receipt of the completed form, or

b. When the person whose record is being evaluated fails to complete the evaluation form within the time frame specified.

125.7(9) *Reapproval.* Applicants approved for kinship foster care who apply for reapproval shall be subject to the same checks as new applicants, except for fingerprinting. The department will evaluate only abuses and convictions of crimes that occurred since the last record check. The evaluation will be conducted using the same process as described in rule 441—125.7(237).

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.8(237) Medical examinations and health care of the child.

125.8(1) *Medical and dental care.* Kinship foster caregivers shall keep the child's department case manager informed of any medical and dental appointments as well as any treatments prescribed for the child.

a. The department may delegate its authority, as custodian, to consent to routine and emergency medical care to a licensed foster parent or approved kinship foster caregiver.

b. Routine medical care includes but is not limited to the following areas:

(1) Preventive care, also known as wellness care, not including the administration of a vaccination. Parents or guardians of the child must provide consent for administration of a vaccination.

(2) Non-emergency medical care, including but not limited to a physical examination, a diagnostic laboratory test, or a medical visit for a minor illness.

(3) Routine dental and vision care, including cleanings and annual examinations.

(4) Use of necessary medication, including but not limited to antibiotics. This does not include psychotropic/mental health medications. Parents or guardians of the child must provide consent for the administration of new psychotropic/mental health medications.

c. When routine and emergency medical consent has not been delegated by the department to the approved kinship foster caregiver:

(1) Kinship foster caregivers shall contact the child's parents to engage them in the process of accessing routine medical and dental care for their child unless parental rights have been terminated.

(2) In case of an emergency or urgent situation requiring medical care and treatment of an acute illness, disease or condition of the child, when a delay or inability to access parental or department consent for medical care or treatment would endanger the health or physical well-being of the child, kinship foster caregivers can provide consent for medical care and treatment.

125.8(2) *Exemption from medical care.* Nothing in this rule shall be construed to require medical treatment or immunization for a minor child of any person who is a member of a church or religious organization that is against medical treatment for disease.

a. In such instance, an official statement from the organization and a notarized statement from the parents shall be incorporated in the record.

b. In potentially life-threatening situations, the child's care shall be referred to appropriate medical and legal authorities.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.9(237) Training and discipline of child.

125.9(1) *Methods of training and discipline.* The home study evaluation of each applicant shall include a discussion and a written assessment of the kinship foster caregivers' methods of training and discipline. Discipline shall be designed to help the child develop self-control, self-esteem, and respect for the rights of others.

125.9(2) *Reports of mistreatment.* Reports of mistreatment coming to the attention of the department and the caseworker for the child will be investigated by the department promptly and referred to the proper authorities when necessary.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.10(237) Emergency care and release of child.

125.10(1) *Supervision and arrangements for emergency care.* Kinship foster caregivers shall provide supervision of the child in preadoptive placement as dictated by the individual child's specific needs.

a. In case of emergency requiring the kinship foster caregiver's temporary absence from the home, arrangements shall be made with designated, responsible persons for the care of the child during the period of absence.

b. The department shall be notified of all emergency absences of the kinship foster caregivers.

125.10(2) *Release of child.* The kinship foster caregivers shall release the child only to the agency, a parent or guardian from whom the child was received for care, or the person specifically designated by the agency, parent or guardian.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.11(237) Changes in kinship foster care home. Kinship foster caregivers shall notify the department and the recruitment and retention contractor within 30 working days of:

1. Any change in the persons living in the home (except for the child placed in the home);
2. A move to a new home; or
3. Any circumstances in the home that could negatively affect the health, safety or welfare of the child in the family's care.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

441—125.12(237) Liability. Kinship foster caregivers who apply the reasonable and prudent parent standard reasonably and in good faith in regard to the child(ren) placed in their home shall have immunity from civil or criminal liability that might otherwise be incurred or imposed. This rule shall not remove or limit any existing liability protection afforded under any other law.

[**ARC 0110D**, IAB 3/4/26, effective 5/1/26]

These rules are intended to implement Iowa Code chapter 237 and section 234.40.

[Filed ARC 0110D (Notice ARC 9846C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTERS 126 to 129
Reserved

CHAPTER 306
OPIOID SETTLEMENT FUND DISBURSEMENT

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/1/31

441—306.1(12) Definition.

"Fund" means the opioid settlement fund created in Iowa Code section 12.51.

[**ARC 0111D**, IAB 3/4/26, effective 5/1/26]

441—306.2(12) Methodology. To facilitate the fund disbursement required by Iowa Code section 12.51, the department may solicit requests for proposals pursuant to rules of the department of administrative services each fiscal year, starting with the fiscal year beginning July 1, 2025. The department may pursue additional funding mechanisms as fund availability and opportunities allow.

[**ARC 0111D**, IAB 3/4/26, effective 5/1/26]

441—306.3(12) Outcome measurement. Subsequent to the awarding of disbursements, the department will formulate indicators to be used to help identify if the outcomes intended for each disbursement are being met. Intended outcomes can include but are not to be limited to prevention of opioid-related deaths, reduction of opioid misuse, and increased access to appropriate medication and services.

[**ARC 0111D**, IAB 3/4/26, effective 5/1/26]

441—306.4(12) Annual report. Starting with the fiscal year beginning on July 1, 2025, on or before November 1, the department will annually submit to the general assembly and to the governor a report that includes the elements required by Iowa Code section 12.51(2)*"b"*(3)(d).

[**ARC 0111D**, IAB 3/4/26, effective 5/1/26]

These rules are intended to implement Iowa Code section 12.51.

[Filed ARC 0111D (Notice ARC 9844C, IAB 12/24/25), IAB 3/4/26, effective 5/1/26]

CHAPTERS 307 to 309
Reserved

CHAPTER 103
BINGO

[Prior to 12/17/86, Revenue Department[730], Ch 94]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[Prior to 6/14/89, Racing and Gaming Division[491], Ch 23]
[Prior to 9/5/90, this chapter was entitled "Qualified Organization"]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/4/30

481—103.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B and in rule 481—100.1(99B), the following definitions apply to all qualified organizations where bingo is played:

"Cash" means any legal tender of the United States.

"Category" means the name given to a particular type of playing face to distinguish one from another.

"Playing face" means the grid on which a player marks numbers and letters called as the game progresses.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.2(99B) License.

103.2(1) A license is required to conduct a bingo occasion unless the requirements of Iowa Code section 99B.23 are met.

103.2(2) Bingo occasions are restricted to the location for which application is made by the qualified organization and approved by the department. For good cause, a license may be transferred to a different location after written notice by the licensee and approval by the department. "Good cause," for purposes of this subrule, may include flood, fire or other natural disasters; sale of the building; or nonrenewal of lease.

103.2(3) Before any organization may conduct bingo, a license application must be approved by the department. Application and license requirements are found in rules 481—100.3(99B), 481—100.4(99B), and 481—100.5(99B).

103.2(4) Bingo occasions may be held as frequently as set forth in Iowa Code section 99B.12. A week starts on Sunday and ends on Saturday. At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.3 Reserved.

481—103.4(99B) Game of bingo. Each game shall meet the requirements of "bingo" as defined in Iowa Code section 99B.1(6) to be a legal game of bingo.

103.4(1) A fair and legal game shall meet all of the following criteria:

a. There will be no concealed numbers on a playing face.

b. There will be an announcer or caller.

c. Numbers will be announced so all players can hear clearly.

d. A free space or spaces are allowed.

e. The caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid.

f. The licensee may require that a player have the last number called for a bingo if posted in the rules established by the licensee.

g. Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker verifies the numbers on winning cards. The caller checks for additional bingos and officially closes the game.

h. Wild numbers are allowed if chosen using a random selection method.

103.4(2) Any player may request that balls drawn and not drawn be inventoried when the winning card or cards are verified in the presence of the responsible party or the responsible party's designee and the caller. The player who requested verification may observe the count.

103.4(3) The cost to play shall be in accordance with the following:

a. The cost of each game will not exceed $50;

b. Cards or games may only be sold within the premises of the bingo occasion and will have a posted price;

c. The cost of each packet, playing face, or tear sheet will be the same for each participant;

d. Payment will be made in a form provided in Iowa Code section 99B.5(2);

e. Free games will not be given, including gift cards redeemable for games. Free concession items, such as food, beverages or daubers, are permitted.

103.4(4) Cards for each category shall be distinctly marked and easy to distinguish from all others.

a. Bingo games or cards may only be printed on one side.

b. In each game, the bingo operator must ensure that duplicate playing faces are not sold.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.5(99B) State rules and rules established by the licensee. This chapter and house rules established by the licensee must be readily available to every bingo player during every bingo occasion, with rules established by the licensee posted on a sign near the front of the playing area.

103.5(1) Posted rules shall be in large, easily readable print and include:

a. The name and mailing address of the licensee;

b. Prices to play; and

c. How to indicate "bingo" to halt the game and collect a prize.

103.5(2) Rules related to reserved seating and age restrictions for children to play may be included.

103.5(3) The following information shall be posted before the beginning of each bingo occasion and not be changed after the bingo occasion begins:

a. Description of each game to be played, including an example of the winning pattern;

b. Price of each game;

c. Prize for each game or method for determining the prize for each game; and

d. Jackpot rules if jackpot games will be played.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.6(99B) Prizes. Cash and merchandise prizes are subject to the limits set forth in Iowa Code section 99B.21. The exact amount of the prize shall be announced before the beginning of each game.

103.6(1) Prizes shall be recorded each occasion on the daily bingo summary (Table A—end of this chapter) as they are paid by listing the number of the game; the winning pattern; the type, color, and series of cards used in the game; the amount of the prize; and the name, address, and social security number of each winner of any prize over $600. Cash prizes over $600 require the deduction of 5 percent withholding taxes as set forth in Iowa Code section 99B.8.

103.6(2) Cash prizes awarded in games with more than one winner shall be shared equally.

a. It is permissible to round up or down, provided doing so does not exceed the maximum payout for that particular game.

b. Examples of prizes awarded in games with more than one winner:

(1) Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives two-thirds of the prize, and Player 2 receives one-third of the prize.

(2) Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single $250 prize. The appropriate payout is $41.66 each, but rounding to the nearest dollar ($42) for each winner would result in a payout of $252, in violation of the maximum payout for a nonjackpot bingo game.

103.6(3) A licensed qualified organization shall have rules governing how a merchandise prize is awarded when there is more than one winner, posted in accordance with rule 481—103.5(99B). The organization must:

a. Split the cash equivalent of the merchandise prize equally among the winners so long as the retail value of the merchandise prize is $250 or less;

b. Provide a substitute merchandise prize with an aggregate retail value approximately equal to that of the designated prize so long as the aggregate retail value of all prizes is $950 or less; or

c. Conduct a continuous or separate playoff bingo game consisting of only the winning players.

103.6(4) An animal shall not be awarded as a prize for persons participating in a game or fair event.

103.6(5) A player shall not be required to return cash or a merchandise prize won in one game in order to play a subsequent game.

103.6(6) Jackpot games shall be conducted in accordance with Iowa Code section 99B.21(2)*"d"* and the following:

a. The jackpot prize will not decrease until it is won;

b. If a jackpot game is not won in accordance with the rules for the jackpot game, the game may transition to a consolation game with a prize of $250 or less.

This rule is intended to implement Iowa Code sections 99B.21, 422.16, and 717D.2.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.7(99B) Workers.

103.7(1) Each organization must have a responsible party listed on the application who is an active member of the organization, familiar with the requirements of the Iowa law and aware of the bingo activities of the organization.

103.7(2) Volunteers must be actively participating members of the licensed organization or participate in an organization to which money will be dedicated.

103.7(3) Paid workers shall not play during a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion's net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

103.7(4) A person receiving rent for a bingo location, either directly or indirectly, shall not be involved in, participate in, or be associated with the operation of bingo games.

103.7(5) Anyone who sells bingo equipment or supplies to a bingo licensee shall not work for that licensee during a bingo occasion.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.8(99B) Expenses.

103.8(1) The licensee shall be able to prove expenses were incurred exclusively and directly as a result of bingo and not exceed 40 percent of net receipts. Reasonable expenses within the 40 percent limit are:

a. The license fee;

b. Withholding, unemployment, or social security taxes;

c. Promotion cost;

d. Equipment and supply purchases;

e. Rent for bingo occasion;

f. Utilities for bingo occasion; and

g. Wages paid for bingo workers.

103.8(2) Expense items are allowed only when receipts or a paid invoice and canceled check are available for review by the department.

103.8(3) When the annual gross exceeds $10,000, expenses shall be paid from a bingo checking account.

103.8(4) Expenses are not reasonable if the amount charged substantially exceeds the current rate or average retail cost of items or services purchased.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.9(99B) Location. Bingo occasions may be conducted on premises as provided in Iowa Code section 99B.13 and shall meet the following criteria:

1. All buildings in which bingo occasions are conducted will meet state or local standards for occupancy and safety.
2. The name of the licensee will be posted on the sign of each building or location where bingo occasions are held. A name that is closely associated with the licensee and clearly identifies the lawful uses of the proceeds may also be used. Generic names, such as "Nelson Street Bingo" or "Uncle Bob's Bingo," will not be used.
3. Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25; **ARC 0088D**, IAB 3/4/26, effective 2/12/26]

481—103.10(10A,725) Advertising. An organization may advertise bingo or any gambling activities legal under Iowa law.

This rule is intended to implement Iowa Code section 725.12.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.11(10A,99B) Equipment. Equipment shall be used as it is intended by the manufacturer and meet the following criteria:

103.11(1) Equipment will be owned by the licensed organization or borrowed from another qualified organization. Use of equipment for which the licensed organization pays consideration directly or indirectly under the guise of a service charge is not allowed. No licensed organization may loan or borrow equipment, goods, or services in exchange for supplies. Equipment should not be rented or leased, but the purchase of equipment on contract is allowed.

103.11(2) Equipment used to conduct bingo will be maintained in good repair and sound working condition. No equipment will be altered to create an advantage for anyone. Play will progress so all players have an equal opportunity to win. Balls will be the same size, shape, weight, and balance. Balls will tumble and circulate freely within the container during bingo games. All 75 balls will be in the container before each game begins.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.12(99B) Records. Accurate records shall be retained for a period of three years and provided to the department for review upon request. The following records are required:

103.12(1) The daily bingo summary (Table A—end of chapter), including:

a. The name of each worker;

b. The social security number of paid workers;

c. Compensation of any worker;

d. The number of players present;

e. A list of all games played, including a description of each game, the cost to play each game, the number and category of bingo cards used for each game, and the prize or prizes paid in each game. The summary will include the totals for the occasion of the gross receipts, prizes awarded, and jackpot prize amounts; and

f. The signature of a caller and another member of the organization.

103.12(2) An organization having $100,000 or more in bingo gross receipts per year must also comply with the following for each bingo occasion:

a. Daily Bingo Summary—CASH CONTROL (Table B—end of chapter):

(1) Gross receipts, adjustments, prize payouts, and net receipts for each game played;

(2) Total net receipts, total cash counted, overage or shortage, and total amount to be deposited for the occasion; and

(3) Signed and dated by two members of the organization.

This form should correspond with the Daily Bingo Inventory Usage Form (Table B—end of chapter).

b. Daily Bingo Inventory Usage (Table C—end of chapter).

(1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.

(2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.

(3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Each loose sheet of bingo paper used to assemble the packet will be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.12(2)*"b"*(1) at the time of assembly.

103.12(3) Records of expenses and dedicated and distributed money are required as follows.

a. The following information will be retained for all payments:

(1) Date of payment.

(2) Payee.

(3) Amount of payment.

(4) Purpose of payment.

b. For checks, the purpose of payment will be recorded on the memo line of the check.

103.12(4) An employee record of people compensated for work at a bingo occasion shall be maintained that shows:

a. Name, address, and social security number;

b. Dates of employment;

c. Times and number of hours worked;

d. Wages paid;

e. Amounts withheld;

f. Check number.

The records must specifically identify for which bingo occasion an employee was compensated, whether or monetarily or otherwise.

103.12(5) An inventory list of the number of playing faces owned by the licensed organization is required to be updated each month.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.13(99B) Bingo checking account. A qualified organization shall maintain a separate bingo checking account established within one day of attaining $10,000 and as provided in Iowa Code section 99B.21(4).

103.13(1) Bingo receipts shall be deposited as provided in Iowa Code section 99B.21(4). Interest earned on deposits in a bingo checking or savings account shall be treated the same as proceeds of bingo occasions. Limited funds as described in Iowa Code section 99B.21(4)*"a"*(1) shall not exceed $7,500. Records shall be kept that identify this money.

103.13(2) Payments shall be paid from the bingo account in accordance with the requirements of Iowa Code section 99B.21. Wages shall not be paid by cash.

103.13(3) The bingo account shall be used for both of the following events:

a. One qualified organization satisfies the dedication requirement by donating funds to another organization over which the licensed organization has no control; or

b. A qualified organization licensee is satisfying the dedication requirement by spending funds to further the charitable, educational, religious, public, patriotic, or civic purposes of its own organization.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.14(10A,99B) Bingo savings account and bingo change fund.

103.14(1) *Bingo savings account.* When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account and transferred back to the bingo checking account before they are spent.

103.14(2) *Bingo change fund.* Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as set forth in rule 481—103.15(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.15(99B) Annual gambling reports.

103.15(1) Each organization conducting bingo shall submit a report to the department as set forth in Iowa Code section 99B.16(3). When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

103.15(2) Annual gambling reports may be completed online at dial.iowa.gov. A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321; or by telephone at 515.281.6848.

103.15(3) The department may require a qualified organization to submit records of specific occasions with the annual report.

103.15(4) All transactions of any school group or parent support group using a schoolwide license shall be on the annual report.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.16(10A,99B) Inspections and audits. Licensed organizations may be inspected or audited by a representative of the department at any reasonable time.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.17(99B) Electronic bingo.

103.17(1) A qualified organization may lease electronic bingo equipment, as defined in Iowa Code section 99B.11(1), from a manufacturer or distributor licensed by the department.

103.17(2) Electronic bingo equipment shall be used only by disabled individuals. For purposes of this rule, "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

103.17(3) Electronic bingo devices shall be used in the following manner:

a. Each player may input into the device each number called, or the device may automatically daub each number as the number is called.

b. Each player will notify the game operator or caller of the winning pattern of bingo by means other than use of the electronic bingo device.

c. Each player is limited to playing a maximum of 54 card faces per game.

d. The cost per bingo game will be the same as it would be if the individual were to purchase the same amount of paper or hard cards.

e. Players of electronic bingo will not be required to play more cards than if using paper or hard cards.

f. Each electronic bingo device will produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost

of electronic bingo cards loaded, and date and time of the transaction. Images of cards or faces stored in an electronic bingo device will be exact duplicates of the printed faces if the faces are printed.

g. The department may examine and inspect any electronic bingo device and related system. Such examination and inspection will include immediate access to the electronic bingo device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.

h. All electronic bingo devices will be loaded and enabled for play on the premises where the game will be played.

i. All electronic bingo devices will be rented or otherwise provided to a player only by a qualified organization, and no part of the proceeds of the rental of such devices will be paid to a landlord, a landlord's employee or agent, or a member of the landlord's immediate family.

j. If a player's call of a bingo is disputed by another player, or if a department representative makes a request, one or more cards stored on an electronic bingo device will be printed by the organization.

k. Players may exchange a defective electronic bingo device for another electronic bingo device provided a disinterested player verifies that the device is not functioning.

This rule is intended to implement Iowa Code section 99B.21(3)*"b."*

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

481—103.18(99B) Bingo at a fair or community festival. Bingo may lawfully be conducted at a fair or a community festival if the requirements of Iowa Code section 99B.22 are met. A qualified organization that has received permission from the sponsor of the fair or community festival to conduct bingo shall be licensed under Iowa Code section 99B.12.

[**ARC 9152C**, IAB 4/30/25, effective 6/4/25]

These rules are intended to implement Iowa Code sections 99B.1 through 99B.7, 99B.11 through 99B.16, 99B.21 through 99B.23, and 99B.32.

[Filed 12/12/76, Notice 10/6/76—published 12/29/76, effective 2/2/77]
[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]
[Filed 11/21/80, Notice 10/15/80—published 12/10/80, effective 1/14/81]
[Filed 3/13/81, Notice 2/4/81—published 4/1/81, effective 5/6/81]
[Filed 8/28/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]
[Filed emergency 6/29/84—published 7/18/84, effective 7/1/84]
[Filed 8/24/84, Notice 7/18/84—published 9/12/84, effective 10/17/84]
[Filed 1/25/85, Notice 12/19/84—published 2/13/85, effective 3/20/85]
[Filed 9/20/85, Notice 7/17/85—published 10/9/85, effective 11/13/85]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 4/24/87, Notice 3/11/87—published 5/20/87, effective 6/24/87]
[Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 12/23/87]
[Filed emergency 5/26/89—published 6/14/89, effective 7/1/89]
[Filed 8/15/90, Notice 4/18/90—published 9/5/90, effective 10/10/90]
[Filed 4/12/91, Notice 2/6/91—published 5/1/91, effective 6/5/91]
[Filed 4/25/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 7/5/02—published 7/24/02, effective 7/5/02]
[Filed 8/30/02, Notice 7/24/02—published 9/18/02, effective 10/23/02]
[Filed 11/19/03, Notice 10/15/03—published 12/10/03, effective 1/14/04]
[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed ARC 1929C (Notice ARC 1858C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]
[Filed ARC 4014C (Notice ARC 3920C, IAB 8/1/18), IAB 9/26/18, effective 10/31/18]
[Filed ARC 6976C (Notice ARC 6879C, IAB 2/8/23), IAB 4/5/23, effective 5/10/23]

NOTE: See forms on following pages.

[Filed ARC 9152C (Notice ARC 8849C, IAB 2/19/25), IAB 4/30/25, effective 6/4/25]
[Editorial change: IAC Supplement 6/25/25]
[Filed Emergency ARC 0088D, IAB 3/4/26, effective 2/12/26]

IOWA DEPARTMENT OF INSPECTIONS,
APPEALS, AND LICENSING

DATE: _____

TABLE A

DAILY BINGO SUMMARY

Daily Cash Control Form users enter total only

TODAYS BINGO RECEIPTS				TODAYS BINGO CASH PRIZES		
Game or Packet	# Sold	Cost/Unit	Receipts	Game	Game Pattern	Prize/Prizes Paid

Adjustments (+ or -)		Total Cash Prizes Paid **	
Gross Receipts *			
State Sales Tax			
Local Option Tax (if applicable)		TOTAL IN ATTENDANCE:	
Total Gross Receipts (after tax)			

Jackpot Game Played - $ _____ in _____ numbers. Jackpot Prize Paid Today $ _____ .

COMPENSATED WORKERS

Name	S.S. #	Rate of Pay	# Hours	Total Paid	Check #

Total Compensation $ _____

DAILY RECAP

* Gross Receipts	$ _____
** Less Cash Prizes	$ _____
Total Deposit	$ _____

SIGNATURES: _____ Date _____

_____ Date _____

Iowa Department of Inspections, Appeals, and Licensing

Social and Charitable Gambling Unit

TABLE B

Daily Bingo Summary—CASH CONTROL

Date: _____ Licensee's Name: _____

City: _____ State: _____

	(1) Gross Receipts	Voids Overrings	Adjusted Gross Receipts	Prize Payouts	Net Receipts
EARLY BIRDS					
REGULAR HARD CARDS					
PACKETS					
JACKPOT					
SPEEDBALL					
OTHER _____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
LATE BIRDS					
TOTAL					
			Plus Payouts by Check		
			Equals Net Cash		
			Equals Cash Counted		
			+ or - Cash over/short		
JACKPOT PRIZE $_____ IN _____ NUMBERS			Equals Cash Deposit		

Instructions

(1) Gross Receipts per Inventory Usage Form (not cash)

(2) Attach copy of Deposit Receipt

Prepared by: _____

Bingo Manager: _____

Iowa Department of Inspections, Appeals, and Licensing

Social and Charitable Gambling Unit

Daily Bingo Summary—INVENTORY USAGE

TABLE C

Licensee's Name:
Qualified Organization License #:
Address:
City, State, ZIP:

Today's Date: _____

Loose Sheet Bingo Paper Inventory								
Color	**Paper Size**	**Game(s) Played**	**Daily Count Start**	**(+) Purchases**	**(-) Voids/ Packet Assembly**	**(-) # Sold**	**(+/- Over/ Under)**	**Daily Count End**

Preassembled Bingo Packets								
Color on Top	**Paper Size**	**Game(s) Played**	**Daily Count Start**	**(+) Purchases**	**(-) Voids**	**(-) # Sold**	**(+/- Over/ Under)**	**Daily Count End**

Bingo Packets Assembled In-House								
When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/Packet Assembly.								
Color on Top	**Paper Size**	**Game(s) Played**	**Daily Count Start**	**(+) Assembled**	**(-) Voids**	**(-) # Sold**	**(+/- Over/ Under)**	**Daily Count End**

CHAPTER 581
DENTAL BOARD DISCIPLINE

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/9/30

481—581.1(147,153,272C) Authority and methods of discipline.

581.1(1) The board has the authority to impose discipline pursuant to Iowa Code title IV, Iowa Code chapter 272C, Iowa Code sections 147.55 and 153.34, and the rules promulgated thereunder.

581.1(2) The board may impose one or more methods of disciplinary action in accordance with Iowa Code sections 153.34 and 272C.3(2).

[**ARC 8995C**, IAB 3/5/25, effective 4/9/25]

481—581.2(153,272C) Discretion of the board. The board may consider the following factors in determining the nature and severity of the disciplinary action to be imposed in accordance with Iowa Code section 272C.15:

1. The relative seriousness of the violation as it relates to ensuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee or registrant.

[**ARC 8995C**, IAB 3/5/25, effective 4/9/25]

481—581.3(147,153,272C) Grounds for discipline. Violations of the provisions of Iowa Code chapter 272C and sections 147.55, 153.32, 153.34 and 272C.15 and other applicable sections of Iowa law shall constitute grounds for the imposition by the board of disciplinary action pursuant to rule 481—581.1(147,153,272C). This rule is not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

581.3(1) The following violations related to notification, compliance and other state laws constitute grounds for disciplinary action:

a. Failure to comply with the requirements of 481—Chapter 574, except as otherwise provided by law;

b. Failure to preserve the confidentiality of patient information or accessing any confidential patient information without authorization;

c. Practice of dentistry, dental hygiene or dental assisting beyond training;

d. Delegation of any acts to any licensee or registrant that are beyond the training or education of the licensee or registrant, or that are otherwise prohibited by rule;

e. Failure to comply with requirements related to prescribing, administering or dispensing any drug pursuant to Iowa Code chapter 124, the provisions of Iowa Code chapter 155A that are applicable to the practice of dentistry, and 481—Chapter 578;

f. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to, a patient or a coworker;

g. Actions that are abusive, coercive, intimidating, harassing, untruthful or threatening in the practice of dentistry; or

h. Failure to comply with an order of the board.

581.3(2) The following violations related to infection control constitute grounds for disciplinary action:

a. Failure to maintain adequate safety and sanitary conditions for a dental office; or

b. Failure to comply with standard precautions for preventing and controlling infectious diseases and managing personnel health and safety concerns related to infection control, as required or recommended for dentistry by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the Iowa occupational safety and health administration.

581.3(3) Violations related to continuing education constitute grounds for disciplinary action:

a. Failure to respond to the board during a continuing education audit, or failure to submit verification of continuing education requirements within the time period provided;

b. Knowingly submitting a false report of continuing education; or

c. Failure to meet the required continuing education hours per renewal period.

581.3(4) Violations related to board investigations constitute grounds for disciplinary action:

a. Interference with, or knowingly providing false information to the board or an agent of the board related to, an inspection or investigation;

b. Failure to comply with a subpoena issued by the board;

c. Failure to fully and promptly comply with office inspections conducted at the request of the board to determine compliance with sanitation and infection control standards or sedation permit requirements;

d. Failure to cooperate with a board investigation; or

e. Retaliating against, threatening or coercing any person for filing a complaint with the board or cooperating with a board inspection or investigation.

581.3(5) The following violations may constitute grounds for disciplinary action:

a. Failure to notify the board of change of name or address within 60 days;

b. Failure to prominently display the names of all persons who are practicing dentistry, dental hygiene or dental assisting within an office; or

c. Giving or receiving cash or cash equivalents, or giving or receiving any gifts exceeding nominal value, for referral of patients.

[**ARC 8995C**, IAB 3/5/25, effective 4/9/25; Editorial change: IAC Supplement 3/4/26]

481—581.4(272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

[**ARC 8995C**, IAB 3/5/25, effective 4/9/25]

These rules are intended to implement Iowa Code chapters 147, 153, 252J, 272C and 598.

[Filed ARC 8995C (Notice ARC 8513C, IAB 12/11/24), IAB 3/5/25, effective 4/9/25]

[Editorial change: IAC Supplement 3/4/26]

CHAPTER 106
DEER HUNTING

[Prior to 12/31/86, Conservation Commission[290] Ch 106]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/5/29

PART I
DEER HUNTING

571—106.1(481A) Licenses. When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident or nonresident hunting license and must have paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person. No person who is issued a deer hunting license and transportation tag shall allow another person to possess that license or transportation tag while that person is deer hunting or tagging a deer. An "any-deer" license shall mean the same as an "any sex" license as referenced in Iowa Code chapter 483A.

106.1(1) *Types of resident licenses.*

a. General deer licenses. General deer licenses shall be valid for taking deer in one resident hunting zone per season selected at the time the license is purchased. General deer licenses shall be valid for taking deer of one or either sex depending on the resident hunting zone selected at the time of purchase. Paid general deer licenses shall be valid zonewide except where prohibited in deer population management zones established under 571—Chapter 105. Free general deer licenses shall be valid for taking deer of either sex only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

b. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex in the zone, county, and season selected by the hunter at the time of purchase.

c. Antlerless-deer-only licenses. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler. Paid antlerless-deer-only licenses shall be valid in one county or in one deer population management zone and in one season as selected at the time the license is purchased. Free and reduced-fee antlerless-deer-only licenses shall be valid on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

d. Bow season licenses. General deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

e. Regular gun season licenses. Paid general deer and antlerless-deer-only licenses shall be valid in either the first or the second regular gun season, as designated on the license. Free general deer licenses and antlerless-deer-only licenses shall be valid in both the first and second regular gun seasons.

f. Muzzleloader season licenses. General deer and antlerless-deer-only licenses, paid or free, shall be valid in either the early or the late muzzleloader season, as designated on the license.

106.1(2) *Resident hunting zones.*

a. Resident zone boundaries. Boundaries are as specified in the resident deer hunting zones map (dated October 2025) published on the department's website (www.iowadnr.gov/deerhunting, "Resident Deer Hunting Zones.")

b. Zone A. Paid general deer licenses shall be valid for taking deer of either sex zonewide.

c. Zone B. Paid general deer licenses shall be valid for taking deer with at least one forked antler zonewide. Paid any-deer licenses shall be valid for taking deer of either sex in only the county selected at the time of purchase. Hunters may obtain no more than one zone B any-deer license annually.

106.1(3) *January antlerless-deer-only resident licenses.*

a. Population management season. Licenses for the population management January antlerless-deer-only season may be issued for counties designated by the commission following a 30-day public comment period. Population management January antlerless-deer-only licenses shall be issued for a county only when a minimum of 100 antlerless-deer-only licenses, as described in 106.10(5), remain unsold in that county as of the third Monday in December. If 100 or more antlerless-deer-only licenses remain unsold for a given county as of the third Monday in December, those remaining antlerless-deer-only licenses shall be made available for the population management January antlerless-deer-only season in that county until the relevant antlerless-deer-only quota as described in 106.10(5) is met. Population management season licenses will be available for purchase starting at 9 a.m. Central Standard Time (CST) on the Tuesday morning following the third Monday in December.

b. Excess tag season. Licenses for the excess tag January antlerless-deer-only season may be issued in any county. Excess tag January antlerless-deer-only licenses shall be issued for a county only when a minimum of one antlerless-deer-only license, as described in 106.10(5), remains unsold for a given county through January 10. Remaining antlerless-deer-only licenses shall be made available starting at 9 a.m. CST on January 11 for the excess tag January antlerless-deer-only season in that county until the relevant antlerless-deer-only quota as described in 106.10(5) is met.

106.1(4) *Types of nonresident licenses.*

a. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex in the zone and season designated by the hunter when the application is submitted as described in 571—106.8(483A).

b. Mandatory antlerless-deer-only licenses. Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-deer-only license for the same zone and season as the any-deer license. If the hunter is unsuccessful in drawing an any-deer license, neither the any-deer nor antlerless-deer-only license will be issued. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler.

c. Optional antlerless-deer-only licenses. A hunter who is not successful in drawing an any-deer license may purchase an antlerless-deer-only license as described in 571—106.8(483A).

d. Bow season license. Bow and arrow deer licenses shall be valid for deer of either sex or antlerless deer during the bow season and in the zone designated by the hunter at the time the application is submitted.

e. Regular gun season license. Regular gun season licenses will be issued for deer of either sex or antlerless deer. Regular gun season licenses will be issued by zone and season and will be valid in the zone and season designated by the hunter when the application is submitted.

f. Muzzleloader season license. Muzzleloader season licenses will be issued for deer of either sex or antlerless deer and shall be valid only during the muzzleloader season and in the zone designated by the hunter when the application is submitted.

g. Excess tag January antlerless-deer-only license. Beginning at 9 a.m. CST on January 11, nonresident hunters may obtain antlerless-deer-only licenses for the excess tag January antlerless-deer-only season specified in 106.2(4). Licenses will be available only in those counties specified in 106.10(3) until the quota provided in 106.10(5) is filled. All regulations specified in this chapter for the January antlerless deer season for resident hunters including limits, shooting hours, method of take, tagging and reporting requirements will also apply to nonresident hunters during this season.

h. Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.2(481A) Season dates. Deer may be taken only during the following seasons:

106.2(1) *Bow season.* Deer may be taken in accordance with the type of license issued from October 1 through the Friday before the first Saturday in December and from the Monday following the third Saturday in December through January 10 of the following year.

106.2(2) *Regular gun seasons.* Deer may be taken in accordance with the type, season and zone designated on the license from the first Saturday in December and continuing for five consecutive days (first regular gun season) or from the second Saturday in December and continuing for nine consecutive days (second regular gun season).

106.2(3) *Muzzleloader seasons.* Deer may be taken in accordance with the type, season and zone designated on the license from the Saturday closest to October 14 and continuing for nine consecutive days (early muzzleloader season) or from the Monday following the third Saturday in December through January 10 of the following year (late muzzleloader season).

106.2(4) *Resident population management and excess tag January antlerless-deer-only seasons.* Deer may be taken in accordance with the type, season, and zone designated on the license from January 11 through the second Sunday following that date.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.3(481A) Shooting hours. Legal shooting hours shall be from one-half hour before sunrise to one-half hour after sunset in all seasons.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.4(481A) Limits.

106.4(1) *Bow season.* The daily bag limit is one deer per license. The possession limit is one deer per license.

106.4(2) *Muzzleloader seasons.* The daily bag limit is one deer per license. The possession limit is one deer per license.

106.4(3) *Regular gun seasons.* The bag limit is one deer per license. The possession limit is one deer per license.

106.4(4) *Resident population management and excess tag January antlerless-deer-only seasons.* The bag limit is one deer per license. The possession limit is one deer per license.

106.4(5) *Maximum annual possession limit.* The maximum annual possession limit for a deer hunter is one deer for each legal license and transportation tag obtained.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.5(481A) Areas closed to hunting. There shall be no open seasons for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly. There shall be no open seasons for hunting deer on all portions of rights-of-way on Interstate Highways 29, 35, 80 and 380.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.6(483A) Nonresident zones open to hunting. Licenses will be valid only in designated areas as follows:

106.6(1) *Nonresident zone boundaries.* As specified in the nonresident deer hunting zones map (dated December 2023) published on the department's website (www.iowadnr.gov/Hunting/Deer-Hunting) "Nonresident Deer Hunting Zones."

106.6(2) Reserved.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.7(483A) Nonresident license quotas. A limited number of nonresident deer licenses will be issued in zones as follows:

106.7(1) *Zone license quotas.* Nonresident license quotas are as follows:

	Any-deer licenses		Mandatory	Optional
	All Methods	Bow	Antlerless-deer-only	Antlerless-deer-only
Zone 1	90	31	90	
Zone 2	90	31	90	
Zone 3	560	196	560	
Zone 4	1280	448	1280	
Zone 5	1600	560	1600	
Zone 6	800	280	800	
Zone 7	360	126	360	
Zone 8	240	84	240	
Zone 9	880	308	880	
Zone 10	100	35	100	
Total	6000	2099	6000	3500

106.7(2) *Quota applicability.* The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 any-deer licenses and 6,000 mandatory antlerless-deer-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 any-deer and 6,000 mandatory antlerless-deer-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 4,500 optional antlerless-deer-only licenses will be issued on a county-by-county basis. The licenses will be divided between the counties in the same proportion as resident antlerless-deer-only licenses. Hunters must designate a zone or county and season when purchasing the license and hunt only in that zone or county and season.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.8(483A) Nonresident application procedure. Applications for nonresident deer hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system or the ELSI Internet license sales website.

106.8(1) *Any-deer licenses.* Applications for any-deer and mandatory antlerless-deer-only licenses will be accepted from the first Saturday in May through the first Sunday in June. No one may submit more than one application during the application period. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. If applications have been sold in excess of the license quota for any zone or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone's license quota for any-deer and mandatory antlerless-deer-only licenses has not been filled, the excess any-deer and mandatory antlerless-deer-only licenses will be sold on a first-come, first-served basis through the ELSI telephone ordering system or the ELSI Internet license sales website. Excess any-deer and mandatory antlerless-deer-only licenses will be sold beginning the last Saturday in July until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. Members of a group that are rejected may purchase licenses individually if excess any-deer and mandatory antlerless-deer-only licenses or optional antlerless-deer-only licenses are available.

106.8(2) *Optional antlerless-deer-only licenses.* Optional antlerless-deer-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales website. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 106.8(1). Optional antlerless-deer-only licenses will only be issued for one of the two regular gun seasons and for qualified disabled hunters (571—106.15(481A)). They will be sold first-come, first-served until the county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-deer-only licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident

small game hunting license and proof of having paid the current year's wildlife habitat fee. Optional antlerless-deer-only licenses will be valid only in the season and county designated by the hunter at the time the license is purchased.

a. Nonresident landowners. Nonresidents who own land in Iowa will have preference in obtaining optional antlerless-deer-only licenses. Nonresidents must qualify as landowners following the criteria stated in 106.17(1) and 106.17(3) through 106.17(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-deer-only licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may claim landowner preference in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may purchase an optional antlerless-deer-only license for one of the two regular gun seasons when excess any-deer licenses go on sale or for the holiday season beginning December 15. Such proof must be provided before an optional antlerless-deer-only license can be purchased and must be resubmitted each year in which an optional antlerless-deer-only license is purchased. These licenses do not count against the county quota.

b. Nonresident proof of land ownership. Nonresidents who request preference for optional antlerless-deer-only licenses will be required to submit a copy of their state of Iowa property tax statement for the current year or sign an affidavit that lists the legal description of their land, date purchased, and book and page number, or instrument number, where the deed is recorded.

106.8(3) *Preference points.* Each individual applicant who is unsuccessful in the drawing for an any-deer license will be assigned one preference point for each year that the individual is unsuccessful. If a person who was unsuccessful in the drawing purchases a leftover license within four weeks, the person will receive a refund for the cost of the preference point. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Preference points will apply only to obtaining any-deer licenses. Once an applicant receives an any-deer nonresident deer hunting license, all preference points will be removed until the applicant is again unsuccessful in a drawing or purchases a preference point as described in 106.8(4). Preference points will apply to any zone or season for which a hunter applies. The first drawing for any-deer licenses each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the any-deer license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

106.8(4) *Purchasing preference points.* A nonresident who does not want to hunt in the current year may purchase one preference point per calendar year. The preference point will apply to the next year's drawing for any-deer licenses. The preference point will be treated in the same manner as preference points obtained by hunters who are unsuccessful in the any-deer license drawing. A nonresident may not purchase a preference point and apply for an any-deer license in the same calendar year. Preference points may be purchased only during the application period for any-deer licenses.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.9(481A) Free and reduced-fee deer licenses for resident landowners and tenants. A maximum of one free general deer license, two free antlerless-deer-only licenses, and two reduced-fee antlerless-deer-only licenses may be issued to a qualifying landowner or eligible family member and a qualifying tenant or eligible family member. Eligibility for licenses is described in 571—106.17(481A). The free general deer license shall be available for one of the following seasons: the youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. One free antlerless-deer-only license

shall be available for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. The second free antlerless-deer-only license shall be valid only for the January antlerless-deer-only season and will be available only if a portion of the farm unit lies within a county where paid antlerless-deer-only licenses are available during that season. Each reduced-fee antlerless-deer-only license shall be valid for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, first and second regular gun seasons, or January antlerless-deer-only seasons. January antlerless-deer-only licenses will be available only if a portion of the farm unit is located in a county where paid antlerless-deer-only licenses are available in that season.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.10(481A) Resident paid deer license quotas and restrictions. Paid deer licenses, including antlerless-deer-only licenses, will be restricted in the type and number that may be purchased.

106.10(1) *Paid general deer licenses.* Residents may purchase no more than two paid general deer licenses, one for the bow season and one for one of the following seasons: early muzzleloader season, late muzzleloader season, first regular gun season, or second regular gun season. No more than 7,500 paid statewide general deer licenses will be sold for the early muzzleloader season. Fifty additional paid early muzzleloader season licenses will be sold through and will be valid only for the Iowa Army Ammunition Plant. There will be no quota on the number of paid general deer licenses issued in the bow season, late muzzleloader season, first regular gun season, or second regular gun season.

106.10(2) *Paid antlerless-deer-only licenses.* Paid antlerless-deer-only licenses have quotas for each county and will be sold for each county until quotas are reached.

a. Paid antlerless-deer-only licenses may be purchased for any season in counties where licenses are available, except as outlined in 106.10(2)*"b."* A license must be used in the season, county or deer population management area selected at the time the license is purchased.

b. No one may obtain paid licenses for both the first regular gun season and second regular gun season regardless of whether the licenses are valid for any deer or antlerless deer only. Paid antlerless-deer-only licenses for the early muzzleloader season may only be purchased by hunters who have already purchased one of the 7,500 paid statewide general deer licenses. Hunters who purchase one of the 7,500 paid statewide general deer licenses for the early muzzleloader season may not obtain paid antlerless licenses for the first or second regular gun season.

c. Prior to September 15, a hunter may purchase one antlerless-deer-only license for any season for which the hunter is eligible. Beginning September 15, a hunter may purchase an unlimited number of antlerless-deer-only licenses for any season for which the hunter is eligible, as set forth in 106.10(2) *"b,"* until the county or population management area quotas are filled. Licenses purchased for deer population management areas will not count in the county quota.

106.10(3) *Population management and excess tag January antlerless-deer-only seasons.* Only antlerless-deer-only licenses, paid or free, are available in counties pursuant to the conditions described in 106.1(3). A license must be used during the population management or excess tag January antlerless-deer-only season as described in 106.2(4) and in the county or deer population management area selected at the time the license is purchased. Free antlerless-deer-only licenses shall be available only in the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during the population management or excess tag January antlerless-deer-only season.

106.10(4) *Free resident landowner/tenant licenses.* A person obtaining a free landowner/tenant license may purchase any combination of paid bow and paid gun licenses available to persons who are not eligible for landowner/tenant licenses as described in 571—106.17(481A).

106.10(5) *Antlerless-deer-only licenses and zone B any-deer licenses.* Paid antlerless-deer-only licenses and zone B any-deer licenses shall be available by county as designated annually by the commission. Prior to the commission designating the quotas, the department shall publish on its website (www.iowadnr.gov/deerhunting) a proposed allocation and accept public comments for at least 30 days.

106.10(6) *Disabled veteran any-deer licenses.* A paid any-deer license shall be available for a resident disabled veteran consistent with Iowa Code section 483A.8D. The fee for this license shall be the same as the general deer license set forth in 571—subrule 15.10(1). Resident disabled veteran any-deer licenses shall be valid during any established firearm season using the method of take authorized for that season. A person may obtain only one disabled veteran any-deer license but may also obtain any other paid or free general deer and antlerless-deer-only licenses that are available to other hunters.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.11(481A) Method of take. Permitted weapons and devices vary according to the type of season.

106.11(1) *Bow season.* Only longbow, compound, or recurve bows shooting broadhead arrows are permitted during the bow season. Arrows must be at least 18 inches long.

a. Crossbows, as described in 106.11(1)*"b,"* may be used during the bow season in the following two situations:

(1) By persons with certain afflictions of the upper body as provided in 571—15.22(481A); and

(2) By persons over the age of 65 with an antlerless-deer-only license as provided in Iowa Code section 483A.8B.

b. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.

c. No explosive or chemical device may be attached to any arrow, broadhead or bolt.

106.11(2) *Regular gun seasons.* Only the following shall be used in the regular gun season: 10-, 12-, 16-, and 20-gauge shotguns shooting single slugs; any handgun or rifle as described in Iowa Code section 481A.48; and any muzzleloaders as described in 106.11(3).

106.11(3) *Muzzleloader seasons.* Only muzzleloading rifles, muzzleloading muskets, muzzleloading pistols, and muzzleloading revolvers will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloading rifle, muzzleloading musket, muzzleloading pistol, muzzleloading revolver, any handgun as defined in 106.11(2), crossbow as described in 106.11(1)*"b,"* or bow as described in 106.11(1). All muzzleloaders as described in this subrule shall only shoot a single projectile between .44 and .775 of an inch.

106.11(4) *January antlerless-deer-only seasons.*

a. Population management January antlerless-deer-only season. Bows, crossbows, shotguns, muzzleloaders, and handguns, as each is described in this rule, and rifles as described in Iowa Code section 483A.8(9) may be used during the population management January antlerless-deer-only season.

b. Excess tag January antlerless-deer-only season. Only rifles as described in Iowa Code section 483A.8(9) shall be used during the excess tag January antlerless-deer-only season.

106.11(5) *Prohibited weapons and devices.* The use of dogs, domestic animals, bait, firearms except as provided for in this chapter, crossbows except as provided in 106.11(1), automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other

natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.11(2) or 106.11(3). Only handguns as described in 106.11(2) may be used to hunt deer and only when a handgun is a lawful method of take.

106.11(6) *Discharge of firearms from roadway.* No person shall discharge a rifle, including a muzzleloading rifle or musket, or a handgun from a highway while deer hunting. In addition, no person shall discharge a shotgun shooting slugs from a highway north of U.S. Highway 30. A "highway" means the way between property lines open to the public for vehicle traffic, including the road ditch, as defined in Iowa Code section 321.1(78).

106.11(7) *Hunting from blinds.* No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 106.2(2), unless such blind exhibits a solid blaze orange marking that is a minimum of 144 square inches in size and is visible in all directions. Such blaze orange shall be affixed directly on or directly on top of the blind. For the purposes of this subrule, the term "blind" is defined as an enclosure used for concealment while hunting, constructed either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.12(481A) Procedures to obtain licenses. All resident deer hunting licenses must be obtained using the ELSI. Licenses may be purchased from ELSI license agents, or online at www.iowadnr.com, or by calling the ELSI telephone ordering system.

106.12(1) *Licenses with quotas.* All paid deer hunting licenses for which a quota is established may be obtained from the ELSI system on a first-come, first-served basis beginning at 9 a.m. CST on August 15 until the quota fills, or through the last day of the hunting period for which the license is valid.

106.12(2) *Licenses without quotas.* All deer hunting licenses that have no quota may be obtained from the ELSI system beginning at 9 a.m. CST on August 15 through the last day of the hunting period for which a license is valid.

106.12(3) *Providing false information.*

a. Any person who provides false information about the person's identity or eligibility for any paid or free landowner/tenant deer license and tag and who attests that the information is correct by accepting and signing the license or tag shall have the person's hunting license revoked as a part of the sentencing for such criminal conviction, and the person shall not be issued a hunting license for one year pursuant to the authority of Iowa Code section 483A.24(2)*"f"* and 571—15.6(483A).

b. In addition to any legal penalties that may be imposed, the obtaining of a license in violation of this rule shall invalidate that deer license and transportation tag and any other deer hunting license and transportation tag obtained during the same year.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.13(481A) Transportation tag.

106.13(1) *Use of transportation tag.* A transportation tag bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of each antlerless deer or on the main beam between two points, if present, on one of the antlers of an antlered deer in such a manner that the tag cannot be removed without mutilating or destroying the tag. This tag shall be attached to the carcass of the deer within 15 minutes of the time the deer carcass is located after being taken or before the carcass is moved to be transported by any means from the place where

the deer was taken, whichever occurs first. No person shall tag a deer with a transportation tag issued to another person or with a tag that was purchased after the deer was taken. This tag shall be proof of possession and shall remain affixed to the carcass until such time as the animal is processed for consumption. The head, and antlers if any, shall remain attached to the deer while being transported by any means whatsoever from the place where taken to the processor or commercial preservation facility or until the deer has been processed for consumption. The hunter who killed the deer must tag the deer using the transportation tag issued in that person's name unless lawfully party hunting.

106.13(2) *Party hunting.*

a. Resident party hunting. During the first and second regular gun seasons and the January antlerless-deer-only seasons in resident zone A only, any resident hunter present in the hunting party may use their tag on a deer harvested by another resident. Party hunting is not allowed in resident zone B.

b. Nonresident party hunting. Party hunting is not allowed by nonresidents.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.14(481A) Resident youth deer and severely disabled hunts.

106.14(1) *Licenses.*

a. Youth deer hunt. A youth deer license shall be valid for taking a deer of either sex zonewide. A youth deer license may be issued to any Iowa resident who is not over 15 years old on the day the youth obtains the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free general deer license for which the youth's family is eligible.

Each participating youth must be accompanied by an adult who possesses a regular hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). Only one adult may participate for each youth hunter. The accompanying adult must not possess a long gun, bow, or crossbow and must be in the direct company of the youth at all times. Youth deer tags must be filled by the eligible youth hunter named on the youth license.

A person may obtain only one youth general deer license but may also obtain any other paid or free general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only or any-deer licenses must be obtained in the same manner with which other hunters obtain them, as described in 106.10(2).

b. Severely disabled hunt. Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one general deer license to hunt deer during the youth season. A person applying for this license must either possess a disability parking permit or provide a completed form from the department of natural resources. The form must be signed by a physician verifying that the person's disability meets the criteria defined in Iowa Code section 321L.1(8). The attending physician shall be currently practicing medicine and shall be a medical doctor, a doctor of osteopathy, a physician assistant, or a nurse practitioner. Forms are available online at www.iowadnr.gov, by visiting the Department of Natural Resources office at 6200 Park Avenue, Des Moines, Iowa, or any district office, or by calling 515.725.8200. A person between 16 and 65 years of age must also possess a regular hunting license and have paid the habitat fee to obtain a license (if normally required to have a hunting license and to pay the habitat fee to hunt). A severely disabled person obtaining this license may obtain any other paid and free general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner by which other hunters obtain them, as described in 106.10(2).

106.14(2) *Season dates.* Deer of either sex may be taken statewide for 16 consecutive days beginning on the third Saturday in September. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during any subsequent deer seasons. The license will be valid for the type of deer and in the area specified on the original license. The youth must follow all other rules specified in this

chapter for each season, including method of take. If the tag is filled during any of the seasons, the license will not be valid in subsequent seasons.

106.14(3) *Shooting hours.* Legal shooting hours will be one-half hour before sunrise to one-half hour after sunset each day regardless of weapon used.

106.14(4) *Limits and license quotas.* An unlimited number of licenses may be issued. The daily and season bag and possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

106.14(5) *Method of take and other regulations.* Deer may be taken with shotguns, bows, handguns, rifles, or muzzleloaders as permitted in 571—106.11(481A). Youth hunters using a handgun must be accompanied and under direct supervision throughout the hunt by a responsible person with a valid hunting license who is at least 21 years of age, with the consent of a parent or guardian. The responsible person with a valid hunting license who is at least 21 years of age shall be responsible for the conveyance of the pistol or revolver while the pistol or revolver is not actively being used for hunting. "Direct supervision" means the same as defined in Iowa Code section 483A.27A(4). All participants must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for obtaining licenses or hunting deer shall apply.

106.14(6) *Procedures for obtaining licenses.*

a. Licenses for severely disabled hunters may be obtained through ELSI beginning at 9 a.m. CST on August 15 through the last day of the severely disabled hunter season.

b. Paid and free youth licenses are available for purchase through ELSI beginning at 9 a.m. CST on August 15 through the last day of the last established deer season.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.15(481A) Nonresident deer hunting season for severely disabled persons.

106.15(1) *Licenses.* A nonresident meeting the requirements of Iowa Code section 321L.1(8) may apply for or purchase a nonresident deer hunting license to participate in a special deer hunting season for severely disabled persons. Nonresidents applying for this license must have on file with the department of natural resources either a copy of a disabilities parking permit issued by a state department of transportation or an Iowa department of natural resources form signed by a physician that verifies their disability.

106.15(2) *Season dates.* Any deer or antlerless deer may be taken in the hunting zone indicated on the deer license during 16 consecutive days beginning the third Saturday in September.

106.15(3) *Shooting hours.* Legal shooting hours will be from one-half hour before sunrise until one-half hour after sunset each day regardless of the type of weapon used.

106.15(4) *Limits.* Daily bag and possession limit is one deer. A person may shoot and tag only one deer by utilizing the license and tag issued in the person's name.

106.15(5) *License quotas.* Licenses for the special hunting season for severely disabled persons shall be issued from the quotas established in 571—106.7(483A). A special quota will not be set aside for severely disabled persons.

106.15(6) *Method of take and other regulations.* Deer may be taken with shotgun, bow, muzzleloading rifle or pistol as defined in 571—106.11(483A). All participants must meet the hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for taking deer with a gun or bow shall apply.

106.15(7) *Application procedures.* Persons meeting the requirements for this season must apply following the procedures described in 571—106.12(483A). A person who does not have a form on file to verify a disability will not be entered into the drawing or be allowed to purchase a license and will have the license fee refunded, less a $10 administrative fee to cover the cost of handling the application as provided in 571—subrule 15.8(1). License agent writing fees, department administrative fees, Internet sales charges and telephone order charges will not be refunded.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

These rules are intended to implement Iowa Code sections 481A.38, 481A.48, 483A.8, and 483A.24.

PART II
DEER DEPREDATION

571—106.16(481A) Deer depredation management. The deer depredation management program provides assistance to producers through technical advice and additional deer licenses and permits where the localized reduction of female deer is needed to reduce damage. Upon signing a depredation management agreement with the department, producers of agricultural or high-value horticultural crops shall be issued, consistent with this rule, deer depredation licenses and deer shooting permits to shoot deer causing excessive crop damage. If immediate action is necessary to forestall serious damage, depredation licenses or shooting permits may be issued before an agreement is signed. Further licenses or permits will not be authorized until an agreement is signed.

106.16(1) *Method of take and other regulations.* Legal weapons and restrictions will be governed by 571—106.11(481A). For deer shooting permits only, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93. The producer or designee must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122.

106.16(2) *Eligibility.* Producers growing typical agricultural crops (such as corn, soybeans, hay and oats and tree farms and other forestlands under a timber management program) and producers of high-value horticultural crops (such as Christmas trees, fruit or vegetable crops, nursery stock, and commercially grown nuts) shall be eligible to enter into depredation management agreements if these crops sustain excessive damage.

a. The producer may be the landowner or a tenant, whoever has cropping rights to the land.

b. Excessive damage is defined as crop losses exceeding $1,000 in a single growing season, or the likelihood that damage will exceed $1,000 if preventive action is not taken, or a documented history of at least $1,000 of damage annually in previous years.

c. Producers who lease their deer hunting rights are not eligible for the deer depredation management program.

106.16(3) *Depredation management plans.* Upon request from a producer, field employees of the wildlife bureau will inspect and identify the type and amount of crop damage. If deer damage is not excessive, technical advice will be given to the producer on methods to reduce or prevent future damage. If damage is excessive and the producer agrees to participate, a depredation management plan will be developed by depredation biologists in consultation with the producer.

a. The goal of the management plan will be to reduce damage to below excessive levels within a specified time period through a combination of producer-initiated preventive measures and the issuance of deer depredation permits.

(1) Depredation plans may require preventive measures such as harassment of deer with pyrotechnics and cannons, guard dogs, temporary fencing, permanent fencing costing less than $1,000, allowing more hunters, increasing the take of antlerless deer, and other measures.

(2) Depredation permits to shoot deer may be issued to Iowa residents to reduce deer numbers until long-term preventive measures become effective. Depredation permits will not be used as a long-term solution to deer damage problems.

b. Depredation management plans will normally be written for a three-year period with progress reviewed annually by the department and the producer.

(1) The plan will become effective when signed by the depredation biologist and the producer.

(2) Plans may be modified or extended if mutually agreed upon by the department and the producer.

(3) Depredation permits will not be issued after the initial term of the management plan if the producer fails to implement preventive measures outlined in the plan.

106.16(4) *Depredation permits.* Two types of permits may be issued under a depredation management plan.

a. Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for a fee of $5 for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued up to the number specified in the management plan.

(2) The landowner or an eligible family member, which shall include the landowner's spouse or domestic partner and juvenile children, may obtain one depredation license for each season established by the commission.

(3) Depredation licenses will be valid only for hunting antlerless deer, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

(4) All other regulations for the hunting season specified on the license apply.

(5) Depredation licenses are valid only on the land where damage is occurring and the immediately adjacent property unless the land is within a designated block hunt area as described in 106.16(4)*"a"*(6). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

(6) Block hunt areas are areas designated and delineated by wildlife biologists of the wildlife bureau to facilitate herd reduction in a given area where all producers may not qualify for the depredation program or in areas of persistent deer depredation. Depredation licenses issued to producers within the block hunt area are valid on all properties within the delineated boundaries. Individual landowner permission is required for hunters utilizing depredation licenses within the block hunt area boundaries. Creation of a given block hunt area does not authorize trespass.

b. Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers who have an approved department deer depredation plan, and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued for a fee of $5 to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops or agricultural crops may be valid for taking deer outside of a hunting season depending on the nature of the damage. The number and type of deer to be killed will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion that could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved signs an agreement with the department.

(5) All deer killed must be recovered and processed for human consumption.

(6) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

(7) Antlers from all deer recovered must be turned over to the conservation officer within 48 hours. Antlers will be disposed of according to department rules.

(8) For out-of-season shooting permits, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93.

c. Depredation licenses and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

d. Depredation licenses and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd. This restriction does not apply in situations where shooting permits are issued for public safety concerns.

e. A person who receives a depredation permit pursuant to this paragraph shall pay a $1 fee for each license that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger (HUSH) program administered by the commission and a $1 writing fee for each license to the license agent.

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24; **ARC 0116D**, IAB 3/4/26, effective 4/8/26]

571—106.17(481A) Eligibility for free landowner/tenant deer licenses.

106.17(1) *Who qualifies for free deer hunting licenses.*

a. Owners and tenants of a farm unit and the spouse and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free deer licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.

b. Juvenile child defined. "Juvenile child" means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.

106.17(2) *Who qualifies as a tenant.* A "tenant" is a person other than the landowner who is actively engaged in the operation of the farm. The tenant may be a member of the landowner's family, including in some circumstances the landowner's spouse or child, or a third party who is not a family member. The tenant does not have to reside on the farm unit.

106.17(3) *What "actively engaged in farming" means.* Landowners and tenants are "actively engaged in farming" if they personally participate in decisions about farm operations and those decisions, along with external factors such as weather and market prices, determine their profit or loss for the products they produce. Tenants qualify if they farm land owned by another and pay rent in cash or in kind. A farm manager or other third party who operates a farm for a fee or a laborer who works on the farm for a wage and is not a family member does not qualify as a tenant.

106.17(4) *Landowners who qualify as active farmers.* These landowners:

a. Are the sole operator of a farm unit (along with immediate family members), or

b. Make all decisions about farm operations, but contract for custom farming or hire labor to do some or all of the work, or

c. Participate annually in decisions about farm operations such as negotiations with federal farm agencies or negotiations about cropping practices on specific fields that are rented to a tenant, or

d. Raise specialty crops from operations such as orchards, nurseries, or tree farms that do not necessarily produce annual income but require annual operating decisions about maintenance or improvements, or

e. May have portions of the farm enrolled in a long-term land retirement program such as the Conservation Reserve Program (CRP) as long as other farm operations occur annually, or

f. Place their entire cropland in the CRP or other long-term land retirement program with no other active farming operation occurring on the farm.

106.17(5) *Landowners who do not qualify.* These landowners:

a. Use a farm manager or other third party to operate the farm, or

b. Cash rent the entire farm to a tenant who is responsible for all farm operations including following preapproved operations plans.

106.17(6) *Where free licenses are valid.* A free license is valid only on that portion of the farm unit that is in a zone open to deer hunting. "Farm unit" means all parcels of land in tracts of two or more contiguous acres that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant regardless of how that land is subdivided for business purposes. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. "Agricultural purposes" includes but is not limited to field crops, livestock, horticultural crops (e.g.,

from nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

106.17(7) *Registration of landowners and tenants.* Landowners and tenants and their eligible family members who want to obtain free deer hunting licenses must register with the department before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

571—106.18(481A) Harvest reporting. Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

[**ARC 7915C**, IAB 5/1/24, effective 6/5/24]

These rules are intended to implement Iowa Code chapter 481C.

[Filed 7/16/75]
[Filed emergency 6/11/76—published 6/28/76, effective 6/11/76]
[Filed emergency 6/13/77—published 7/13/77, effective 6/13/77]
[Filed emergency 9/1/77—published 9/21/77, effective 9/1/77]
[Filed 6/8/78, Notice 3/8/78—published 6/28/78, effective 8/2/78]
[Filed 6/5/79, Notice 3/7/79—published 6/27/79, effective 8/1/79]
[Filed 6/6/80, Notice 3/5/80—published 6/25/80, effective 7/30/80]
[Filed 6/5/81, Notice 3/4/81—published 6/24/81, effective 7/29/81]
[Filed 6/3/82, Notice 3/3/82—published 6/23/82, effective 7/28/82]
[Filed 6/3/83, Notice 3/30/83—published 6/22/83, effective 8/1/83]
[Filed emergency after Notice 6/13/84, Notice 2/29/84—published 7/4/84, effective 6/15/84]
[Filed 5/31/85, Notice 2/27/85—published 6/19/85, effective 7/24/85]
[Filed emergency 8/16/85—published 9/11/85, effective 8/16/85]
[Filed 6/11/86, Notice 2/26/86—published 7/2/86, effective 8/6/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 6/11/87, Notice 3/11/87—published 7/1/87, effective 8/10/87]
[Filed 5/13/88, Notice 2/24/88—published 6/1/88, effective 7/6/88]
[Filed 6/10/88, Notice 2/24/88—published 6/29/88, effective 8/10/88]
[Filed 5/12/89, Notice 3/8/89—published 5/31/89, effective 7/5/89]
[Filed 5/11/90, Notice 3/7/90—published 5/30/90, effective 7/4/90]
[Filed 5/10/91, Notice 3/6/91—published 5/29/91, effective 7/3/91]
[Filed 5/8/92, Notice 3/4/92—published 5/27/92, effective 7/6/92]
[Filed emergency 12/4/92—published 12/23/92, effective 12/4/92]
[Filed emergency 3/12/93—published 3/31/93, effective 3/12/93]
[Filed 5/7/93, Notice 3/31/93—published 5/26/93, effective 7/6/93]
[Filed 5/20/94, Notice 3/2/94—published 6/8/94, effective 7/13/94]
[Filed emergency 5/15/95—published 6/7/95, effective 5/15/95]
[Filed 5/15/95, Notice 3/1/95—published 6/7/95, effective 7/14/95]
[Filed 8/11/95, Notice 6/7/95—published 8/30/95, effective 10/4/95]
[Filed 5/15/96, Notice 2/28/96—published 6/5/96, effective 7/15/96]
[Filed emergency 12/13/96 after Notice 11/6/96—published 1/1/97, effective 12/13/96]
[Filed 5/15/97, Notice 3/12/97—published 6/4/97, effective 7/14/97]
[Filed 8/22/97, Notice 6/4/97—published 9/10/97, effective 10/15/97]
[Filed 9/19/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]
[Filed 5/29/98, Notice 3/11/98—published 6/17/98, effective 7/22/98]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
[Filed emergency 9/13/99—published 10/6/99, effective 9/13/99]
[Filed emergency 11/12/99 after Notice 9/8/99—published 12/1/99, effective 11/12/99]
[Filed 5/12/00, Notice 3/8/00—published 5/31/00, effective 7/5/00]
[Filed 5/11/01, Notice 3/7/01—published 5/30/01, effective 7/4/01]

[Filed 5/9/02, Notice 3/6/02—published 5/29/02, effective 7/3/02]
[Filed 6/20/03, Notice 3/5/03—published 7/9/03, effective 8/13/03]
[Filed 10/10/03, Notice 7/9/03—published 10/29/03, effective 12/3/03]
[Filed 6/18/04, Notice 3/3/04—published 7/7/04, effective 8/11/04]
[Filed 6/17/05, Notice 3/30/05—published 7/6/05, effective 8/10/05]
[Filed 6/16/06, Notice 3/29/06—published 7/5/06, effective 8/9/06]
[Filed 6/14/07, Notice 3/28/07—published 7/4/07, effective 8/8/07]
[Filed emergency 12/14/07—published 1/16/08, effective 12/14/07]
[Filed 6/24/08, Notice 4/9/08—published 7/16/08, effective 8/20/08]
[Filed 11/20/08, Notice 9/10/08—published 12/17/08, effective 1/21/09]
[Filed ARC 7921B (Notice ARC 7690B, IAB 4/8/09), IAB 7/1/09, effective 8/5/09]
[Filed ARC 8255B (Notice ARC 8015B, IAB 7/29/09), IAB 11/4/09, effective 12/9/09]
[Filed ARC 8888B (Notice ARC 8684B, IAB 4/7/10), IAB 6/30/10, effective 8/18/10]
[Filed ARC 9717B (Notice ARC 9587B, IAB 6/29/11), IAB 9/7/11, effective 10/12/11]
[Filed ARC 0189C (Notice ARC 0114C, IAB 5/2/12), IAB 7/11/12, effective 8/15/12]
[Filed ARC 0830C (Notice ARC 0717C, IAB 5/1/13), IAB 7/10/13, effective 8/14/13]
[Filed ARC 1562C (Notice ARC 1475C, IAB 5/28/14), IAB 8/6/14, effective 9/10/14]
[Filed ARC 2086C (Notice ARC 2031C, IAB 6/10/15), IAB 8/5/15, effective 9/9/15]
[Filed Emergency After Notice ARC 2697C (Notice ARC 2533C, IAB 5/11/16), IAB 8/31/16, effective 8/12/16]
[Filed ARC 3098C (Notice ARC 3013C, IAB 4/12/17), IAB 6/7/17, effective 7/12/17]
[Filed ARC 3831C (Notice ARC 3731C, IAB 4/11/18), IAB 6/6/18, effective 7/11/18]
[Filed ARC 4531C (Notice ARC 4422C, IAB 5/8/19), IAB 7/3/19, effective 8/7/19]
[Filed ARC 5066C (Notice ARC 5032C, IAB 5/6/20), IAB 7/1/20, effective 8/5/20]
[Filed ARC 5601C (Notice ARC 5435C, IAB 2/10/21), IAB 5/5/21, effective 6/9/21]
[Filed ARC 5682C (Notice ARC 5509C, IAB 3/10/21), IAB 6/16/21, effective 7/21/21]
[Filed ARC 6354C (Notice ARC 6239C, IAB 3/9/22), IAB 6/15/22, effective 7/20/22]
[Filed ARC 6788C (Notice ARC 6579C, IAB 10/5/22), IAB 1/11/23, effective 2/15/23]
[Filed Emergency After Notice ARC 7053C (Notice ARC 6977C, IAB 4/5/23), IAB 8/9/23, effective 7/17/23]
[Filed ARC 7915C (Notice ARC 7239C, IAB 12/27/23), IAB 5/1/24, effective 6/5/24]
[Filed ARC 0116D (Notice ARC 9594C, IAB 10/15/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 108
WILD FURBEARER TRAPPING AND HUNTING

[Prior to 12/31/86, Conservation Commission[290] Ch 104]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/18/30

571—108.1(481A) Badger, opossum, striped skunk, red fox, gray fox, mink, muskrat and weasel. Open season shall be from 8 a.m. on the first Saturday in November through February 28 of the succeeding year. Entire state open. No daily bag or possession limit.

108.1(1) *Disturbing muskrat houses.* Any department of natural resources officer, natural resource biologist, or county conservation board director may permit trappers to dig into or disturb muskrat houses on specific state or county game management areas as provided in Iowa Code section 481A.90, after finding that muskrats are causing excessive damage by destroying the vegetation essential to the welfare of a marsh and after so posting the area.

108.1(2) *Game management areas.* Open season for taking muskrats on certain state game management areas, certain federal national wildlife refuges, and certain county conservation board areas, only where approved by the wildlife bureau and posted accordingly, shall be from 8 a.m. the day after the regular muskrat trapping season ends until April 1. The use of foothold traps during this season is prohibited unless each trap is placed completely inside a muskrat house. No daily bag or possession limit.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25; **ARC 0117D**, IAB 3/4/26, effective 4/8/26]

571—108.2(481A) Groundhog. Continuous open season. Entire state open. No daily bag or possession limit.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.3(481A) Raccoon.

108.3(1) *Hunting.* Continuous open season on private lands and from 8 a.m. on the first Saturday in November through February 28 of the succeeding year on public lands. Entire state open. No daily bag or possession limit.

108.3(2) *Trapping.* Continuous open season using cage traps and dog-proof traps on private lands year-round. Trapping limitations described in this chapter apply to trapping raccoons from 8 a.m. on the first Saturday in November through February 28 of the succeeding year on all lands. Entire state open. No daily bag or possession limit.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.4(481A) Beaver. Open season shall be from 8 a.m. on the first Saturday in November through April 15 of the succeeding year. No daily bag or possession limit.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25; **ARC 0117D**, IAB 3/4/26, effective 4/8/26]

571—108.5(481A) Coyote.

108.5(1) *Hunting.* Continuous open season. Entire state open. No daily bag or possession limit.

108.5(2) *Trapping.* Open season for trapping coyote shall be 8 a.m. on the first Saturday in November through February 28 of the succeeding year. Entire state open. No daily bag or possession limit. Any conservation officer or wildlife biologist may authorize a landowner, tenant or designee to trap coyotes causing damage outside the established trapping season dates.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.6(481A) Gray (timber) wolf and spotted skunk. Continuous closed season.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.7(481A) River otter and bobcat.

108.7(1) *License requirements.* Each person who takes river otters or bobcats shall have a valid fur harvester license and pay the habitat fee if normally required to have a license to hunt or trap.

108.7(2) *Open area.* River otters may be taken statewide. Bobcats may be taken in the following counties: Adair, Adams, Appanoose, Audubon, Boone, Cass, Cedar, Cherokee, Clarke, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Fremont, Guthrie, Harrison, Henry, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Plymouth, Polk, Pottawattamie, Poweshiek, Ringgold, Scott, Shelby, Sioux, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, and Woodbury.

108.7(3) *Seasonal daily bag limit.*

a. The seasonal daily bag limit for river otters is 3 river otters per person.

b. The seasonal daily bag limit for bobcats is 1 bobcat per person in the following counties: Audubon, Boone, Cedar, Cherokee, Clinton, Crawford, Dallas, Delaware, Guthrie, Harrison, Iowa, Jackson, Jasper, Johnson, Jones, Lyon, Monona, Muscatine, Plymouth, Polk, Poweshiek, Scott, Shelby, Sioux, Webster, and Woodbury.

c. The seasonal daily bag limit for bobcats is 3 bobcats per person in the following counties: Adair, Adams, Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Page, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, and Wayne.

d. No more than 3 bobcats total can be legally harvested by a fur harvester in a season. River otters or bobcats trapped in excess of the seasonal daily bag limit or in a closed area must be turned over to the department; the fur harvester shall not be penalized.

108.7(4) *Season dates.* The season for taking river otters and bobcats opens on the first Saturday in November and closes on February 28 of the following year.

108.7(5) *Reporting requirements.* Anyone, including a landowner or tenant not required to have a fur harvester license, who takes a river otter or bobcat must report the harvest and arrange to receive a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) tag from the officer or designated department employee within seven days of harvest. The river otter or bobcat shall be skinned and its lower jaw or skull turned over to the department conservation officer or designated department employee at the time the CITES tag is issued. If the specimen is to be kept whole for taxidermy purposes, a cut shall be made by the trapper between the gum line and eye so the CITES tag can be attached to the skin.

108.7(6) *Tagging requirements.* Every river otter or bobcat that may legally be kept must have a CITES tag attached. Tags will be supplied by the conservation officer or designated department employee. The tag must remain with the pelt until the pelt is sold or used for other purposes that render it no longer available for sale. Persons displaying river otters or bobcats as taxidermy mounts or as other decorative items must keep the tags in their possession as proof of legal harvest.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.8(481A) Accidental capture of a river otter or bobcat during a closed season. A person who accidentally captures a river otter or bobcat during a closed season or in a closed area or after the person's individual daily bag limit has been reached shall not be penalized provided that:

1. The river otter or bobcat is captured during a legal trapping season or as part of a legal depredation control process; and

2. A conservation officer is contacted within 24 hours and the river otter or bobcat and all parts thereof are turned over to a conservation officer as soon as practical.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.9(481A) Trapping restrictions. Trapping for all furbearers will be restricted as follows:

108.9(1) *Exposed bait.* No person shall set or maintain any leghold, body-clasping trap, or snare within 20 feet of exposed bait on land anywhere in the state or over water in the following areas:

a. Mississippi River corridor—Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines and Lee Counties.

b. Missouri River corridor—Those portions of Woodbury, Monona, Harrison, Pottawattamie, Mills and Fremont Counties west of Interstate 29.

c. Des Moines River corridor—Boone, Dallas, Polk, Marion, Mahaska, Wapello and Van Buren Counties.

"Exposed bait" means meat or viscera or any animal, bird, fish, amphibian, or reptile with or without skin, hide, or feathers visible to soaring birds.

108.9(2) Reserved.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.10(481A) Public roadside limitations—snares and body-gripping type traps. No person shall set or maintain any snare or body-gripping type trap within any public road right-of-way within 200 yards of buildings inhabited by human beings unless a resident of the dwelling adjacent to the public road right-of-way has given permission or unless the body-gripping type trap is completely underwater or at least one-half of the loop of a snare is underwater. Nothing in this rule shall be construed as limiting the use of foothold traps or box-type live traps in public road rights-of-way. No person shall place or leave any trap, stake, or nonindigenous set making material upon any public road right-of-way except during a period of time that begins two weeks before the trapping season opens and ends on the last day of the season.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.11(481A) Snares.

108.11(1) *Placement.* No person shall set or maintain any snare in any public road right-of-way so that the snare when fully extended can touch any fence. Snares may not be attached to a drag.

108.11(2) *Loop size.* No snare when set will have a loop larger than 8 inches in horizontal measurement except for snares set with at least one-half of the loop underwater or snares set on private land other than roadsides within 30 yards of a pond, lake, drainage ditch, creek, stream or river shall not have a loop larger than 11 inches in horizontal measurement.

108.11(3) *Deer locks.* All snares must have a functional deer lock that will not allow the snare loop to close smaller than 2½ inches in diameter.

108.11(4) *Mechanical snares.* It shall be illegal to set any mechanically powered snare designed to capture an animal by the neck or body unless such snares are placed completely underwater.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.12(481A) Body-gripping traps. No person shall set or maintain any body-gripping trap on any public road right-of-way within five feet of any fence.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.13(481A) Foothold traps. No person shall set or maintain on land any foothold trap with metal-serrated jaws, metal-toothed jaws or a spread inside the set jaws of greater than 7 inches.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.14(481A) Removal of animals from traps and snares. All animals or animal carcasses caught in any type of trap or snare, except those that are placed entirely underwater and designed to drown the animal immediately, must be removed from the trap or snare by the trap or snare user immediately upon discovery and within 24 hours of the time the animal is caught.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.15(481A) Trap tag requirements. All traps and snares, whether set or not, possessed by a person who can reasonably be presumed to be trapping shall have a metal tag attached plainly labeled with the user's name and address.

[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

571—108.16(481A) Colony traps. All colony traps must be set entirely under water.
[**ARC 9243C**, IAB 5/14/25, effective 6/18/25]

These rules are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, 481A.90, and 481A.92.

[Filed emergency 6/11/76—published 6/28/76, effective 6/11/76]
[Filed emergency 7/20/77—published 8/10/77, effective 9/1/77]
[Filed emergency 9/1/77—published 9/21/77, effective 10/15/77]
[Filed 6/28/78, Notice 3/8/78—published 7/26/78, effective 8/30/78]
[Filed emergency 8/9/78—published 9/6/78, effective 8/9/78]
[Filed 7/5/79, Notice 3/7/79—published 7/25/79, effective 8/29/79]
[Filed 7/2/80, Notice 3/5/80—published 7/23/80, effective 8/27/80]
[Filed 7/9/81, Notice 3/4/81—published 8/5/81, effective 9/9/81]
[Filed 6/3/82, Notice 3/3/82—published 6/23/82, effective 7/28/82]
[Filed 6/3/83, Notice 3/30/83—published 6/22/83, effective 8/1/83]
[Filed 6/13/84, Notice 2/29/84—published 7/4/84, effective 9/1/84]
[Filed 6/6/85, Notice 2/27/85—published 7/3/85, effective 8/15/85]
[Filed 6/11/86, Notice 2/26/86—published 7/2/86, effective 8/15/86]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 6/11/87, Notice 3/11/87—published 7/1/87, effective 8/10/87]
[Filed 5/13/88, Notice 2/24/88—published 6/1/88, effective 7/6/88]
[Filed 5/12/89, Notice 3/8/89—published 5/31/89, effective 8/1/89]
[Filed 5/11/90, Notice 3/7/90—published 5/30/90, effective 8/1/90]
[Filed 5/10/91, Notice 3/6/91—published 5/29/91, effective 8/1/91]
[Filed 5/8/92, Notice 3/4/92—published 5/27/92, effective 8/3/92]
[Filed 5/7/93, Notice 3/31/93—published 5/26/93, effective 8/2/93]
[Filed 5/20/94, Notice 3/2/94—published 6/8/94, effective 8/1/94]
[Filed 5/15/95, Notice 3/1/95—published 6/7/95, effective 8/1/95]
[Filed 9/19/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]
[Filed 5/18/05, Notice 3/30/05—published 6/8/05, effective 7/13/05]
[Filed 5/17/06, Notice 3/29/06—published 6/7/06, effective 7/12/06]
[Filed 6/14/07, Notice 5/9/07—published 7/4/07, effective 8/8/07]
[Filed 6/24/08, Notice 4/9/08—published 7/16/08, effective 8/20/08]
[Filed ARC 7933B (Notice ARC 7691B, IAB 4/8/09), IAB 7/1/09, effective 8/5/09]
[Filed ARC 8889B (Notice ARC 8685B, IAB 4/7/10), IAB 6/30/10, effective 8/18/10]
[Filed ARC 9654B (Notice ARC 9544B, IAB 6/1/11), IAB 8/10/11, effective 9/14/11]
[Filed ARC 0188C (Notice ARC 0115C, IAB 5/2/12), IAB 7/11/12, effective 8/15/12]
[Filed ARC 0831C (Notice ARC 0718C, IAB 5/1/13), IAB 7/10/13, effective 8/14/13]
[Filed ARC 3799C (Notice ARC 3624C, IAB 2/14/18), IAB 5/9/18, effective 6/13/18]
[Filed ARC 4530C (Notice ARC 4423C, IAB 5/8/19), IAB 7/3/19, effective 8/7/19]
[Filed ARC 5067C (Notice ARC 5033C, IAB 5/6/20), IAB 7/1/20, effective 8/5/20]
[Filed ARC 5681C (Notice ARC 5510C, IAB 3/10/21), IAB 6/16/21, effective 7/21/21]
[Filed ARC 7010C (Amended Notice ARC 6948C, IAB 3/8/23; Notice ARC 6815C, IAB 1/11/23), IAB 5/3/23, effective 6/7/23][1]
[Filed ARC 9243C (Notice ARC 8612C, IAB 1/8/25), IAB 5/14/25, effective 6/18/25]
[Filed ARC 0117D (Notice ARC 9595C, IAB 10/15/25), IAB 3/4/26, effective 4/8/26]

[1] June 7, 2023, effective date of amendments to 108.1 to 108.10 [ARC 7010C] delayed 70 days by the Administrative Rules Review Committee at its meeting held May 8, 2023; delay lifted at the meeting held June 13, 2023.

CHAPTER 158
IGNITION INTERLOCK DEVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

661—158.1(321J) Scope and authority.

158.1(1) The rules in this chapter establish standards and requirements that apply to ignition interlock devices installed in motor vehicles pursuant to court orders or administrative orders issued by the DOT pursuant to Iowa Code chapter 321J.

158.1(2) Various sections of Iowa Code chapter 321J require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to have ignition interlock devices "of a type approved by the commissioner of public safety" installed on their vehicles in order to continue to drive legally. The rules in this chapter provide the standards for such approval.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.2(321J) Definitions. The following definitions apply to rules in this chapter:

"Alcohol" means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

"ASP" means an authorized service provider, which is a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate IIDs approved pursuant to this chapter.

"BrAC" means breath alcohol concentration, which is the amount of alcohol determined by chemical analysis of the individual's breath measured in grams of alcohol per 210 liters of breath.

"Bypass," "bypassing" or *"tampering"* means the attempted or successful circumvention of the proper functioning of an IID, including but not limited to the push start of a vehicle equipped with an IID; disabling, disconnecting or altering an IID; or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

"Confirmatory test" means a breath alcohol test required in response to a bypass or a first failed test.

"DCI" means the Iowa division of criminal investigation.

"DOT" means Iowa department of transportation, office of driver services.

"Fail level" means a BrAC equal to or greater than 0.04 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

"First failed test" means providing a breath sample to an ignition interlock device with an alcohol concentration of 0.04 or more.

"IID" means ignition interlock device, which is an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.04 grams or greater per 210 liters of breath, the vehicle will be prevented from starting.

"Initial test" means a breath sample that is collected in an attempt to start a vehicle.

"Laboratory" means the division of criminal investigation criminalistics laboratory.

"Lessee" means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID and whose driving privileges are contingent on the use of an IID.

"Lockout" means a condition in which the IID will not accept a breath test.

"Lockout override" means a method of unlocking a device to accept a breath sample.

"Manufacturer" means the person, company, or corporation that produced the IID.

"Random retest" means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

"Start or starting" means to manipulate a vehicle's inputs or systems or to activate a motor, thereby initiating the transition of a stationary vehicle into a motor-powered, driver-controlled motion.

"User" means a person operating a vehicle equipped with an IID.

"Violation" means a violation as described in Iowa Code section 321J.17A(4).

"Violation reset" means a required calibration check and recalibration in accordance with subrule 158.8(1) when the device has a recorded violation.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.3(321J) Approval. To be approved, an IID will meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices as published in the Federal Register, May 8, 2013, Volume 78, No. 89 pages 26849-26867. Only a notarized statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) In addition to the federal standards, the laboratory shall apply scientific tests or methods to a particular IID to determine whether it meets an acceptable standard for accuracy.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public laboratories or authorities.

158.3(3) A list of IIDs approved by the commissioner of public safety shall be maintained by the laboratory. The list is available without cost by writing to the Iowa Department of Public Safety, Division of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Boulevard, Ankeny, Iowa 50023; by telephoning 515.725.1500; or by accessing the list on the laboratory's website.

NOTE: As of May 1, 2024, the website of the laboratory is breathalcohol.iowa.gov.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.4(321J) Revocation of approval.

158.4(1) The approval of an IID will remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause. Reasons for revocation include but are not limited to the following:

a. Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, monitoring, or calibration of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

b. A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

c. A pattern of evidence indicating that the IID may be easily tampered with or bypassed.

d. Any violation on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and calibration of IIDs, or failure of a manufacturer to address repeated violations by an ASP.

e. Cancellation of the manufacturer's required liability insurance coverage.

f. Cessation of business operations by the manufacturer.

g. Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

h. Failure of the manufacturer or an ASP to notify the DOT and the county attorney of the county of residence of the lessee within 30 days of the discovery of evidence of tampering with or attempting to bypass an IID.

i. Evidence that the manufacturer or ASP(s), or its owners, employees, or agents, has committed any act of theft or fraud, deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

j. Revocation of approval in another state for any of the reasons for revocation listed in paragraphs 158.4(1)*"a"* through *"i."*

158.4(2) A revocation shall be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless otherwise specified by the commissioner. A copy of each notice of revocation shall be provided to the director of the DOT.

158.4(3) Upon voluntary surrender or revocation, all IIDs subject to surrender or revocation shall be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP shall notify all affected lessees of the surrender or revocation and the requirement that a new IID shall be installed by an existing ASP within the time frame specified in this subrule.

158.4(4) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.5(321J) Modifications to an approved IID. The manufacturer shall inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification shall include but not be limited to a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of these changes should also include a narrative explaining how the modifications or alterations will affect the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID shall comply with the following:

158.6(1) The IID will be designed and constructed to measure a person's BrAC by utilizing a sample of the person's breath delivered directly into the IID. A minimum volume of 1.5 liters of continuously delivered breath is required for acceptance but may be lowered to 1.2 liters of continuously delivered breath with a medical waiver provided to the department.

158.6(2) The IID will be designed and constructed so that the ignition system of the vehicle in which it is installed will not be started if the BrAC of the person submitting the initial test is 0.04 BrAC or more.

158.6(3) The IID will lock out if the IID has not been calibrated within 67 days subsequent to the last calibration. Calibration may be required more frequently at the discretion of the manufacturer or the ASP. The laboratory administrator may approve a device using fuel cell technology to be recalibrated within 187 days of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. A lockout override may be utilized to unlock a device for a period of three hours.

158.6(4) The IID will require a confirmatory test in response to a failed first test or bypass. Once the confirmatory test begins, the device will allow six minutes for the confirmatory test to be completed. Once a confirmatory test is in progress, either (1) failing to provide a detectable breath sample to the IID when prompted by the device or (2) providing a breath sample to the IID with an alcohol concentration or 0.04 or more will be recorded as a violation and, if in response to a bypass or random retest, cause the device to immediately notify peace officers as prescribed in this rule and disable the sample-free start.

158.6(5) The IID shall record every instance when the vehicle is started, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with or bypassed.

158.6(6) The IID shall require the operator to submit to a random retest within ten minutes of starting the vehicle. A minimum of two additional random retests will occur within 60 minutes of starting the vehicle, and a minimum of two random retests will occur within every 60 minutes

thereafter. Once a random test begins, the device will allow six minutes for the random retest to be completed. Random retests may be achieved during operation of the vehicle.

158.6(7) The IID will permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator will successfully perform a breath sample test before the vehicle may be restarted.

158.6(8) The IID will automatically and completely purge residual alcohol before allowing subsequent tests.

158.6(9) The IID will be installed in such a manner that it will not interfere with the normal operation of the vehicle after the vehicle has been started.

158.6(10) The IID will be equipped with a method of immediately notifying peace officers if the retest required by subrule 158.6(6) is not performed or if the result of a random retest exceeds the alcohol concentration of 0.04 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn and repeated flashing of the vehicle's headlights. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below 0.04 BrAC.

158.6(11) Each IID will be uniquely identified by a serial number. Along with any other information required by the DOT or by an originating court, all reports to the DOT or to an originating court concerning a particular IID will include the name, address, and driver's license number of the lessee and the unique serial number of the IID. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report will also be included as part of the report.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.7(321J) IID security.

158.7(1) The manufacturer and its ASPs will take all reasonable steps necessary to prevent tampering with or physical circumvention of the IID. These steps shall include the following:

a. ASPs will use special locks, seals, installation procedures, or design characteristics that prevent or record evidence of tampering or circumvention attempts.

b. The manufacturer or the ASP will affix a label to the IID indicating that attempts to tamper with or circumvent the IID may subject a person to criminal prosecution or administrative sanctions.

158.7(2) No owner or employee of a manufacturer or an ASP may authorize or assist with the disconnection of an IID or enable the use of any emergency bypass mechanism or any other bypass procedure that allows a person restricted to the use of a vehicle equipped with a functioning IID to start or operate a vehicle without providing all required breath samples. Authorizing or assisting with the disconnection of an IID may subject the owner or employee of a manufacturer or an ASP to criminal prosecution or administrative sanctions.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter will have the calibration checked and recalibrated at least once every 60 days or pursuant to a violation reset using either a wet bath simulator or dry gas standard. Calibration is to be completed by the manufacturer or the ASP. In lieu of calibration of an installed IID, an installed IID may be exchanged for another calibrated IID. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. An IID will automatically enter a lockout condition if the IID has not been calibrated within seven days of a violation reset or after the deadlines established in this subrule.

158.8(2) The calibration record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle will be maintained by the manufacturer or the ASP. The record will include the following:

a. Name of the person performing the calibration;

b. Date;

c. Value and type of standard used;
d. Batch or lot number of standard;
e. Unit type and identification number of the IID; and
f. Description of the vehicle in which the IID is installed, including:
(1) Registration plate number and state;
(2) Make;
(3) Model;
(4) Vehicle identification number;
(5) Year; and
(6) Color.

158.8(3) The IID will be calibrated for accuracy according to the manufacturer's procedures. All data contained in the IID's memory will be downloaded, and the manufacturer or the ASP will make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination.

158.8(4) All information obtained as a result of each inspection will be retained by the manufacturer or the ASP for five years from the date the IID is removed from the vehicle.

158.8(5) Any manufacturer or ASP who discovers evidence of tampering with or attempting to bypass an IID will, within 30 days of the discovery, notify the DOT and the county attorney of the county of residence of the lessee of that evidence.

158.8(6) The manufacturer or the ASP will provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI.

158.8(7) The manufacturer or the ASP will notify the DOT within ten days if an IID is not calibrated within the time period specified in subrule 158.6(3).

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, will comply with the following provisions:

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter will maintain general liability insurance coverage that is effective in Iowa and that has been issued by an insurance carrier authorized to operate in Iowa by the Iowa division of insurance in an amount of not less than $1 million per occurrence and $3 million in the aggregate. Each manufacturer and ASP will furnish the DCI with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule will carry an endorsement requiring that the DCI be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

158.9(2) Each manufacturer of IIDs approved for use in Iowa will maintain an email address and a telephone number that are available 24 hours a day, 365 days a year, for lessees or users to contact the manufacturer or the ASP if lessees or users have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer of IIDs approved for use in Iowa will provide the lessee with instructions on how to properly use the IID, including recommending a 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the IID.

158.9(4) An IID utilized under these rules will be installed and removed by the manufacturer or the ASP in conformance with the prescribed procedures of the manufacturer.

158.9(5) The department of public safety reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, results of calibrations, violations, data logs, and results of known alcohol standards will be made available for inspection upon request to any representatives of the department of public safety or DOT or any peace officer.

[**ARC 0118D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code chapter 321J.

[Filed ARC 7887B (Notice ARC 7566B, IAB 2/11/09), IAB 7/1/09, effective 10/1/09]

[Filed ARC 0118D (Notice ARC 9658C, IAB 11/12/25), IAB 3/4/26, effective 4/8/26]

CHAPTER 23
EMPLOYER'S CONTRIBUTION AND CHARGES

[Prior to 9/24/86, Employment Security[370]]
[Prior to 3/12/97, Job Service Division [345] Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

871—23.1(96) Definitions.

23.1(1) *Balancing account.* An account set up to receive benefit charges that by law are not chargeable to any employer. The purpose of the balancing account is to enable the department to properly account for all benefits paid out.

23.1(2) *Average annual taxable payroll.* See Iowa Code section 96.1A(2).

23.1(3) *Calendar quarter.* See Iowa Code section 96.1A(6).

23.1(4) *Computation date.* The date as of which employers' experience with respect to unemployment or unemployment risk is measured for the purpose of determining contribution rates.

23.1(5) *Employer's contribution and payroll report.* An employer's quarterly report of the wages paid to individual workers, the total and taxable wages paid and the amount of contributions due to a state unemployment insurance fund.

23.1(6) *Contributions.* See Iowa Code section 96.1A(8).

23.1(7) *Contributor rate.* The percent constituting the rate at which the employer's payroll is taxed.

23.1(8) *Employer.* See Iowa Code section 96.1A(14).

23.1(9) *Experience.* An employer's record with respect to contributions paid, benefits charged, and taxable wages reported.

23.1(10) *Experience rating.* A method for determining the contribution rates of individual employers on the basis of the factors specified in the state employment security law for measuring employers' experience with respect to unemployment or unemployment risk.

23.1(11) *Federal unemployment tax.* The tax imposed by the Federal Unemployment Tax Act on employers with respect to having individuals in their employ.

23.1(12) *Federal Unemployment Tax Act.* Subchapter C of Chapter 23 of the United States Internal Revenue Code which relates to the federal unemployment tax.

23.1(13) *Funds.*

a. Administrative funds. Funds made available from federal, state, local and other sources to meet the cost of state workforce development administration.

b. Contingency fund. An amount of money appropriated by Congress to meet certain unpredictable increases in costs of administration by the state workforce development divisions arising from increases in workload or other specified causes.

c. Employment security administration fund. See Iowa Code section 96.13(1).

d. Special employment security contingency fund. See Iowa Code section 96.13(3).

e. Temporary emergency surcharge fund. See Iowa Code section 96.7(11).

f. Unemployment compensation fund. See Iowa Code section 96.9.

g. Unemployment trust fund. See Iowa Code section 96.9(2).

23.1(14) *Indian tribe.* See Iowa Code section 96.1A(24).

23.1(15) *Liability determination.* See Iowa Code section 96.7(4).

23.1(16) *Subject employer.* An employing unit that is subject to the contribution provisions of a state employment security law.

23.1(17) *Quarterly wage report.* A report that generates after the employer has electronically submitted its quarterly contribution and payroll.

23.1(18) *Quarterly wage detail.* A report listing workers and their wages by social security number.

This rule is intended to implement Iowa Code sections 96.7(2)*"c"*(3), 96.7(7)*"b,"* and 96.11(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.2(96) Definition of wages for employment during a calendar quarter. Unless the context otherwise requires, terms used in rules, forms, and other official pronouncements issued by the department have the following meaning:

23.2(1) Wages paid are wages paid to an individual during the calendar quarter. Wages earned but not paid during the calendar quarter are considered as wages for employment in the quarter paid. The employer's contribution and payroll is evidence of when the wages were paid. If the wages are not listed, they shall be considered as paid as of:

a. The date appearing on the check.

b. The date appearing on the notice of direct deposit.

c. The date the employee received the cash payment.

d. The date the employee received any other type of payment in lieu of cash.

23.2(2) Wages payable means wages earned and unpaid.

23.2(3) Remuneration paid in goods or services shall be computed on the basis of the fair value of the goods or services at the time of payment.

23.2(4) Cash value of room and board.

a. If board, rent, housing, lodging, meals, or similar advantage is extended in any medium other than cash as partial or entire remuneration for service constituting employment, the reasonable cash value of same shall be deemed wages subject to contribution.

b. Where the cash value for such board, rent, housing, lodging, meals, or similar advantage is agreed upon in any contract of hire, the amount so agreed upon shall be deemed the value of such board, rent, housing, lodging, meals or similar advantage. Check stubs, pay envelopes, contracts, and the like, furnished to employees setting forth such cash value, are acceptable evidence as to the amount of the cash value agreed upon in any contract of hire except as provided in paragraphs 23.2(4)*"d"* and *"e."*

c. In the absence of an agreement in a contract of hire, the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an employed individual, shall be deemed to have not less than the following cash value except as provided in paragraph 23.2(4)*"d."*

Full board and room per week	$300.00
Meals (without lodging) per week	100.00
Meals (without lodging) per day	20.20
Lodging (without meals) per week	198.00
Lodging (without meals) per day	40.00
Individual meals:	
Breakfast	4.50
Lunch	5.30
Dinner	10.50
A meal not identifiable as breakfast, lunch or dinner	4.50

d. The department or its authorized representative may, after affording reasonable opportunity at a hearing for the submission of relevant information in writing or in person, determine the reasonable cash value of such board, rent, housing, lodging, meals, or similar advantage in particular instances or group of instances, if it is determined that the values fixed in or arrived at in accordance with paragraph 23.2(4)*"c,"* or in the contract of hire do not properly reflect the reasonable cash value of such remuneration.

e. If the department determines that the reasonable cash value is other than prescribed in a contract of hire or in paragraph 23.2(4)*"c,"* the employer's quarterly payroll and contribution reports to the department shall thereafter show the value of such remuneration as determined by the department.

f. Notwithstanding the provisions of this paragraph, the cash value of meals that are provided by and for the convenience of the employer on the business premises of the employer shall not be deemed as insured wages under chapter 96 of the Iowa Employment Security Law. Lodging furnished

by the employer, for the convenience and on the business premises of the employer, shall not be considered wages if the employee is required to accept the lodging as a condition of employment.

This rule is intended to implement Iowa Code section 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.3(96) Wages.

23.3(1) Wages are as defined in provided in Iowa Code section 96.1A(40), with the additional clarifications.

23.3(2) The term "wages" shall not include:

a. The amount of payment in addition to the employee's regular wages paid for the sole purpose of compensating the employee for expenses inherent in the performance of services away from the regular base of operation.

b. Amounts paid specifically for travel or other ordinary and necessary expenses incurred or reasonably expected to be incurred in the employer's business are not wages. Travel and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts if both wages and expense allowances are combined in a single payment.

c. Cash payments, or the cash value of other remuneration, made voluntarily and without contractual obligation to, or in behalf of, an individual for periods during which such individual is in active service or training as a member of the national guard, or the military or naval forces of the United States, including the organized reserves.

d. Sick pay.

(1) "Wages" shall not include any amounts paid as sick pay if the payments are made by or on behalf of an employer under a plan or system. The plan or system must provide sick pay for the employees of the employer or a class or classes of the employer's employees. The plan may include dependents.

(2) In the absence of a plan or system providing sick pay, any amounts paid by or on behalf of an employer on account of sickness are not included after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

e. The amount of any payment by an employing unit for or on behalf of an individual in its employ, under a supplemental unemployment benefit plan established by such employing unit, with approval of the department. Such plan or system must make provision for payment to a trust fund or similar account on behalf of individuals performing services for it. The account must be used to pay supplemental unemployment benefits to such employing unit's employees over and above any sum to which such employees might be entitled under the provisions of the state employment security law. Such payments to employees are not remuneration for the purposes of reducing or preventing payment of unemployment benefits. Such plan shall contain the following features:

(1) The employer pays into a separately established trust fund or similar account an amount per hour (or equivalent) worked by the employees covered by the agreement until the maximum amount called for has been reached. The plan specifically provides for the supplementation of unemployment benefits under the written terms of an agreement, contract, trust arrangement, or other instrument.

(2) These payments made by the employer into the trust fund or similar account are not subject to recovery by the employer before the satisfaction of all liabilities to employees covered by the plan.

(3) The trust fund or similar account is to be used to pay supplemental unemployment benefits to employees over and above any sum to which they might be entitled under the provisions of a state employment security law.

(4) That the agreement provides that such employee is not entitled to receive any payment from the trust fund or similar account unless the employee is also concurrently eligible for benefits under a state employment security law.

(5) The plan requires that benefits are to be determined according to objective standards. Thus, a plan may provide similarly situated employees with benefits that differ in kind and amount but will not permit such benefits to be determined solely at the discretion of the administrator of the fund.

(6) That the employee has no vested right in any of the moneys paid into the trust fund or similar account except as the employee may qualify for benefits under the terms of the agreement.

(7) That any payment made to or on behalf of an employee be from and to a trust fund or similar account described in Section 401(a) of the United States Internal Revenue Code Title 26 of 1970, which is exempt from tax under Section 501(a) of said Code.

(8) An employer seeking approval of a supplemental unemployment benefit (SUB) plan should petition the department in the manner provided for petitioning for a declaratory ruling. The employer should include a written copy of its plan in the petition for declaratory ruling.

f. Remuneration paid to an officer of corporation if such officer is a majority stockholder:

(1) Unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(2) If such services are required to be covered under this chapter as a condition to receiving a full tax credit against the tax imposed by the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3301-3309).

g. Remuneration paid by this state or any of its political subdivisions or by an Indian tribe to:

(1) An elected official,

(2) A member of a legislative body,

(3) A member of the judiciary of a state or political subdivision,

(4) A member of the state national guard or air national guard,

(5) An employee serving on a temporary duty basis for fire, storm, snow, earthquake, flood, or similar emergency, or

(6) A person serving in a nontenured policymaking capacity or advisory capacity pursuant to state law that ordinarily does not require duties of more than eight hours per week.

h. The term "wages" shall not include:

(1) Any amount of personal compensation withdrawn by a bona fide sole proprietor from the business or profession.

(2) Any amount of personal compensation withdrawn by a bona fide partner or partners from their partnership entity.

(3) Remuneration for services that are paid by a limited partnership to a limited partner is reportable. If a limited partner performs the duties of a general partner, remuneration is considered to be exempt.

i. Payments made by an employer to a deferred compensation plan, established to provide for an employee's retirement, are not wages subject to contributions unless the payments were deducted from the employee's pay through a salary reduction agreement. In circumstances where both the employer and the employee contribute to the plan, the employer's share is not wages unless the employee would receive a cash payment if the employee chose not to participate in the plan.

j. Remuneration paid to members of limited liability companies based on membership interest —see Iowa Code section 96.1A(19)*"a"*(9) and 96.1A(40)*"b"*(5).

k. Remuneration paid for services performed by an inmate of a correctional institution. Persons in work release programs are considered inmates, and their wages are not reportable. Remuneration paid to residents of halfway houses is reportable.

23.3(3) The term "wages" shall include:

a. Small business corporation remuneration. Remuneration paid to officers of "subchapter S" corporations for services performed in Iowa shall be deemed to be wages. Any corporate dividends must be approved and recorded in the corporate minutes prior to payment of such dividends. Remuneration to shareholders shall not be deemed to be dividends if such remuneration is paid regularly, either weekly or monthly, and is not in proportion to such shareholder's amount of stock,

or in proportion to such shareholder's investment in the corporation. Corporate dividends are not considered wages. Ordinary income distributions as reported on IRS Form K-1 will not be considered to be wages provided that distributions are made proportionate to stock ownership or shareholder's investment and provided that corporate officers performing services for the corporation have received appropriate remuneration for services performed as defined by the Internal Revenue Service and the remuneration is reported as wages. Paragraph 23.3(2)*"f"* describes possible exclusion of wages paid to corporate officers who are majority stockholders.

b. Wages of employees hired with equipment. Where an employee is hired with equipment, except where it is ordinary in custom and usage in the trade or business for employees to furnish such equipment at their own expense, the fair value of the remuneration for the employee's services, if specified in the contract of hire, shall be considered wages. If the contract of hire does not specify the employee's wages, or the value of the wages agreed upon under the contract of hire is not a fair value, the department shall determine the employee's wages, taking into consideration the prevailing wages for similar work under comparable conditions, and the wages thus determined shall apply as wages and be so reported by the employer.

c. Union members. Members of a union, subject to the direction and control of the union and acting on behalf of the union, are considered employees of the union with respect to the services performed. Payments made to them by the union as reimbursement for time lost from their regular employment are considered wages.

d. Cafeteria plans. A cafeteria plan is a set of benefit options offered by the employer to employees or to a class of employees. A particular benefit in a cafeteria plan will be considered to be "wages" subject to contributions (tax) for Iowa unemployment insurance purposes if the employee has the option of receiving a cash payment in lieu of the benefit. If the employee does not have the option of receiving a cash payment, the benefit will still be considered "wages" subject to contributions unless the benefit is specifically excluded from the definition of "wages" in Iowa Code section 96.1A(40).

e. Personal use of company vehicle. The cash value of personal use of a company automobile or other vehicle is "wages" subject to contributions (tax) for Iowa unemployment insurance purposes and shall be reported to the department as wages paid in the quarter in which the personal use occurred.

This rule is intended to implement Iowa Code sections 96.5(5)*"a"* and 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.4(96) Wages—back pay. A payment in the form of or in lieu of back pay to an individual (exclusive of legal fees and other litigation expenses) shall be reported by the employer as total and taxable wages paid to the individual in the quarter in which the employer actually made the payment in the form of or in lieu of back pay. A payment for back pay is taxable and recoverable if it meets the definition of wages. Punitive or liquidated damages for other than lost wages, and job search expenses, are not taxable, recoverable or deductible as a back pay award.

23.4(1) Where the back pay wages, award or a judgment are paid as remuneration for employment by an employer into an account for an individual, the amount is considered as wages paid in the quarter in which the employer or appointed party actually pays the amount to the individual.

23.4(2) Where the department, individual, and employer agree that the employer may remit to the department amounts to repay a benefit overpayment resulting from receipt of back pay, the employer is required to report this amount to the department as total and taxable wages paid to the individual in the calendar quarter in which the amount is actually paid.

This rule is intended to implement Iowa Code section 96.3(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.5(96) Gratuities and tips.

23.5(1) Tips received by an individual from a person or persons other than the individual's employer, and not accounted for to the employer, are not wages unless required by subrule 23.5(2). If the employee makes an accounting to the employer listing the tips received, these tips must be

reported to the department as total and taxable wages. Where the customer writes the amount of the tip on a bill and the employer pays the employee the amount so shown and charges it to the customer's account, such amounts are wages.

23.5(2) Tips are considered reportable and taxable as wages when taken into account by the employer in determining the employee's compensation under the federal wage and hour law, when paid by the customer as a service charge set by the employer, or when pooled and distributed to the employees by the employer. The employer shall keep sufficient detailed records so that it can be ascertained, if necessary, by audit or other authorized inspection which compensation is reportable as taxable tips and which compensation is reportable as compensation other than tips. For reporting purposes to the department, the tips and other reportable and taxable compensation may be submitted in aggregate on Form 65-5300, Employer's Contribution and Payroll Report.

23.5(3) An accounting as used in this rule means the reporting of tips as gratuities by an employee to the employer for the purpose of deducting social security taxes or withholding taxes with the employer reporting the same on Form 941, Employer's Quarterly Federal Tax Return.

This rule is intended to implement Iowa Code section 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.6(96) Taxable wages.

23.6(1) If an individual has more than one employer, each employer must pay contributions on the employee's wages up to the taxable wage base.

23.6(2) The employer may not deduct any part of the contributions due on taxable wages from an employee's pay.

23.6(3) Only wages reported to the Iowa unemployment insurance program may be used in computing the employee's reportable taxable wages in Iowa.

23.6(4) A successor employer may use the taxable wages paid and reported by the predecessor employer to determine the successor employer's taxable wages if the successor employer received a transfer of experience from the predecessor employer.

23.6(5) A successor employer that received a transfer of experience may, at the successor employer's option, use the taxable wages reported by the predecessor to compute the taxable wages for the balance of the calendar year or may compute the taxable wages as if the employees acquired from the predecessor were new employees.

This rule is intended to implement Iowa Code section 96.1A(36).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.7(96) New employer contribution rates.

23.7(1) The term contributory employer excludes reimbursable employers but includes employers with a "zero" rate.

23.7(2) For the purposes of this rule, an administrative contribution surcharge and a temporary emergency surcharge may be added to an employer's contribution rate.

23.7(3) For the purposes of this rule, the first quarter in which an employer's account will be considered chargeable with benefits will be the third quarter of the employer's liability unless the employer paid and reported no wages during the first two quarters of liability. In that case, the employer will not be considered chargeable with benefits until the first quarter in which the employer pays and reports wages. Once an employer's account has been chargeable with benefits, it will be considered chargeable for rate computation purposes until it is terminated.

23.7(4) For the purposes of this rule, any single employer that has two or more establishments or businesses engaged in different industrial classification activities, with one or more establishments or businesses engaged in construction activity as defined in rule 871—23.82(96), will be assigned the contribution rate applicable to construction if 50 percent or more of the combined business activity is derived from the establishments or businesses engaged in construction activities.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.8(96) Due date of quarterly contribution and payroll.

23.8(1) *Due date.* All covered employers subject to Iowa Code section 96.7 shall file with the department quarterly contribution and payroll reports on or before the due date, and any employer failing to file a quarterly when due shall be considered delinquent.

a. Contributions are due quarterly on the last day of the month following the calendar quarter for which the contributions have accrued. The first payment of all employers becoming liable during a calendar year unless otherwise noted shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

b. If any due date listed in this rule falls on a Saturday, Sunday, or legal holiday, the due date is the next following business day. Quarterly wage detail, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the department.

23.8(2) *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year are due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month following that calendar quarter in which the first dollar in Iowa wages has been paid.

a. The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of $20,000 in wages was paid.

b. The first contribution payment of any domestic employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein the liability was established, or the last day of the month following that calendar quarter in which a total of $1,000 in wages was paid.

23.8(3) *Due date for elective coverage.* The first contribution payment of any employing unit that elects with the written approval of such election by the department to become an employer, or to have nonsubject services performed for it deemed employment, is due on the last day of the month next following the close of the calendar quarter in which the conditions of becoming an employer by election are satisfied, and includes contributions with respect to all wages paid for employment occurring on and after the date stated in such approval (as of which such employing unit becomes an employer), up to and including the calendar quarter in which the conditions of becoming an employer by election are satisfied.

23.8(4) *Due date for newly liable employer.* The first contribution payment of an employer who becomes newly liable for contributions in any year in any other manner is due on the last day of the month next following the quarter wherein such individual or employing unit became an employer.

23.8(5) *Delinquent date and penalty and interest.*

a. A quarterly wage detail or contribution payment or payment in lieu of contributions that is not received on or before the due date is delinquent. An employer who fails to timely file quarterly contribution and payroll is liable to the department, for each such delinquent quarter, subject to waiver for good cause shown, a penalty as provided in Iowa Code section 96.14(2). No penalty will apply to delinquent quarters when the employer proves to the satisfaction of the department that no wages were paid.

b. An employer who has not paid contributions or payments in lieu of contributions on or before the due date shall pay interest on the delinquent contribution at the rate of 1 percent per month, or 1/30 of 1 percent for each day or fraction thereof, from and after the due date until payment is received by the department unless good cause is shown why such interest shall be waived.

23.8(6) *Due date upon demand.* If the department finds that the collection of any contribution or payment in lieu of contributions will be jeopardized by delaying the collection thereof until the date

otherwise described, upon written demand by the department, such contribution or payment in lieu of contribution shall become immediately due and delinquent.

23.8(7) *Extension of time.* Upon written request filed with the department before the due date of any contribution and payroll, the department may, for good cause shown, grant an extension in writing of the time for filing and the payment of the contributions, but no extension may exceed 30 days and no extension may postpone payment beyond the last day for filing tax returns under the Federal Unemployment Tax Act. If an employer who has been granted an extension fails to pay the contribution on or before the termination of the period of such extension, interest shall be payable from the original due date as if no extension had been granted.

This rule is intended to implement Iowa Code section 96.7(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.9(96) Delinquency notice. If an employer has not submitted its quarterly contribution and payroll with 20 days of the due date, IWD will issue, via mail or email to the address on file, a delinquency notice stating the employer's name, account number, and experience rate and the quarter for which contribution and payroll is delinquent. If the employer has sold or dissolved the business, the employer is required to show the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer is required to provide the name and address of the successor and the employer's future mailing address.

This rule is intended to implement Iowa Code section 96.7(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.10(96) Payments in lieu of contributions.

23.10(1) An employer who has qualified for reimbursement payments or has had an election to become a reimbursable employer approved shall pay to the department an amount equal to the amount of regular or extended benefits paid, including benefits that are based on wage credits transferred from another employer. If extended benefits are in effect, employers shall reimburse one-half of the extended benefits paid, except governmental employers and Indian tribes shall reimburse all extended benefits paid.

23.10(2) At the end of each calendar quarter, the department shall bill each reimbursable employer via a statement sent within 30 days of the quarter for which the benefits are charged. The statement will include the last four digits of the social security number, name of claimant and amount of benefits charged to the employer for each claimant as well as the amount of any previous amounts due. Payment for each quarter's charges is due within 30 days of the issuance of the statement. If the employer fails to reimburse the department within the period prescribed by these rules, the department may attempt collection of the amount due, including any of the following methods:

a. Issuance of Notice of Jeopardy Assessment and Demand for Payment.

b. Issuance of Notice of Lien.

c. Any other actions as prescribed by the law or these rules, including collection by distress warrant. Interest on delinquent reimbursable benefits is charged at the rate of 1 percent per month or 1/30 of 1 percent per day from the date payment was due until the date of payment.

This rule is intended to implement Iowa Code section 96.7(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25; **ARC 0091D**, IAB 3/4/26, effective 2/10/26]

871—23.11(96) Identification of workers covered by the Iowa employment security law.

23.11(1) Each employer shall obtain the social security number of each of its employees subject to the Iowa employment security law.

23.11(2) An employer shall report the worker's social security number in making any report required by the department with respect to the worker.

23.11(3) If a worker failed to report to the employer a correct social security number or fails to show the employer a receipt issued by an office of the social security board acknowledging that the worker has filed an application for an account number, the employer shall inform the worker that

Regulation 106 of the Internal Revenue Service, United States Treasury Department, under the United States Federal Insurance Contributions Act provides that:

a. Each worker shall report to every employer for whom the worker is engaged in employment a social security number with the worker's name exactly as shown on the social security card issued to the worker by the social security board.

b. Each worker who has not secured a social security number shall file an application for a social security account number on Form SS-5 of the Treasury Department, Internal Revenue Service. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves employment if such date precedes such seventh day.

c. If, within 14 days after the date on which the worker first performs employment for wages for the employer, or on the day on which the worker leaves the employ of the employer, whichever is the earlier, the worker does not have a social security account number, and has not shown the employer a receipt issued to the worker by an office of the social security board acknowledging that the worker has filed an application for an account number, the worker shall furnish the employer an application on Form SS-5, completely filled in and signed by the worker. If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement, signed by the worker, of the date of the statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and worker's sex, and a statement as to whether the worker had previously filed an application on Form SS-5 and, if so, the date and place of such filing. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of the obligation to make an application on Form SS-5 as required in paragraph 23.11(3)*"b."*

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.12 Reserved.

871—23.13(96) Employer elections to cover multistate workers.

23.13(1) *Arrangement.* The following rule governs the department's administrative cooperation with other states subscribing to the interstate reciprocal coverage arrangement, hereinafter referred to as the arrangement. Unless and until the department approves the arrangement via the Employer's Election to Cover Multi-State Worker form or an accepted and approved form from another jurisdiction, employers are subject to localization of employment (rule 871—23.24(96)).

23.13(2) *Definitions.* As used in this rule unless the context clearly indicates otherwise:

"Agency" means any officer, board, department, division, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

"Interested jurisdiction" means any participating jurisdiction to which an election submitted under this rule is sent for its approval, and "interested agency" means the agency of such jurisdiction.

"Jurisdiction" means any state of the United States, the District of Columbia, Puerto Rico, or, with respect to the federal government, the coverage of any federal unemployment compensation law.

"Participating jurisdiction" means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

23.13(3) *Submission and approval of coverage elections under the interstate reciprocal coverage arrangement.*

a. Any employing unit may file an election to cover under the law of a single participating jurisdiction all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than one participating jurisdiction. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which:

(1) Any part of the individual's services are performed;

(2) The individual resides; or

(3) The employing unit maintains a place of business to which the individual's services bear a reasonable relation.

b. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election. If such agency approves the election, it shall forward a copy thereof to the agency of each other participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election, as promptly as practicable, and notify the agency of the elected jurisdiction accordingly. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.

c. If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

d. Such an election is effective as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. An election thus approved is effective, as to any interested agency, only if it is approved by such agency.

e. In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within ten days after being notified of such action.

23.13(4) *Effective period of election.*

a. Commencement. An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

b. Termination.

(1) The application of an election to any individual under this rule shall terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one particular jurisdiction. Such termination becomes effective as of the close of the calendar quarter in which notice of such findings is mailed to all parties affected.

(2) Except as provided in subparagraph 23.13(4)*"b"*(1), each election approved hereunder remains in effect through the close of the calendar year in which it is submitted and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(3) Whenever an election under this rule ceases to apply to any individual, under subparagraph 23.13(4)*"b"*(1) or 23.13(4)*"b"*(2), the electing unit shall notify the affected individual accordingly.

23.13(5) *Reports and notices by the electing unit.*

a. The electing unit shall promptly notify each individual affected by its approved election and furnish the elected agency a copy of such notice.

b. Whenever an individual covered by an election under this rule is separated from employment, the electing unit shall again notify the individual forthwith as to the jurisdiction under whose unemployment compensation law the individual's services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

c. The electing unit shall immediately report to the elected jurisdiction any change that occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where

a change in the work assigned to an individual requires such individual to perform services in a new participating jurisdiction.

This rule is intended to implement Iowa Code section 96.20.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.14(96) Elective coverage of excluded services. An employing unit having services performed for it that are not subject to the compulsory coverage provisions of the Act may file an application for voluntary election to become an employer under the law or to extend its coverage to individuals performing services that do not constitute employment as defined in the law.

23.14(1) In no case shall an elective coverage agreement under Iowa Code section 96.8(3) be approved unless and until it has been established that the employing unit making application for elective coverage is normally and continuously engaged in a regular trade, business or occupation.

23.14(2) An application for elective coverage shall be disapproved if the department finds that the employing unit at the time of making the application was insolvent or expected to discontinue business for any reason within one year from the date the application is filed, or that the employing unit is not normally and continuously engaged in a regular trade, business or occupation.

23.14(3) The department may, on its own motion, request a written statement as to why an employing unit wishes to file an election to become a subject employer as provided for in Iowa Code section 96.8(3)*"a"* and may request evidence of financial stability.

23.14(4) Any written election for a period prior to the date of filing shall become binding upon approval by the department, and notification of the approval shall be forwarded to the employer. If for any reason the department does not approve such voluntary election, the employing unit shall be notified of the reasons why such approval was withheld.

23.14(5) The effective date of the voluntary election is the date on which the individual or individuals with noncovered wages first elect to have covered wages.

23.14(6) Effect of election approval. The first contribution payment of any employing unit that elects to become a covered employer shall become due and shall be paid on or before the due date of the reporting period during which the conditions of becoming a covered employer by election are satisfied, and shall include employer contributions with respect to all wages paid on and after the date stated in such approval (as of which such employing unit becomes a covered employer), up to and including the last pay period in the reporting period in which the conditions of becoming a covered employer by election are satisfied.

This rule is intended to implement Iowa Code section 96.8(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.15 to **23.17** Reserved.

871—23.18(96) Nature of relationship between employer-employee.

23.18(1) *Commission salespersons and insurance solicitors.* Commission salespersons are considered employees and wages are subject to unemployment tax unless there is a department-approved independent contractor agreement in place.

23.18(2) *Directors and officers of a corporation.* Directors who receive a reasonable fee for attending meetings and who perform no other services are not employees of the corporation. Officers of associations and corporations who perform services for the associations or corporations are employees.

23.18(3) *Members of family.*

a. Services performed by an individual in the employ of a son, daughter, or spouse, and services performed by a child under the age of 18 in the employ of a father or mother are exempt from the provisions of this chapter.

b. Services performed by a foster parent in the employ of a foster child, by a stepparent in the employ of a stepchild, and by a child under the age of 18 years in the employ of a stepparent or foster parents are exempt from the provisions of this chapter.

c. Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home- and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

23.18(4) *Aliens.* This chapter makes no distinction between citizens and lawful aliens. Lawful aliens in nonexempt employment are counted in determining whether the employer is subject to the Act and are covered by the contribution and benefit provision.

23.18(5) *Aged and minor employees.* Contributions are payable upon services rendered by an employee regardless of the age of the employee.

23.18(6) *Family employment.* Parents, spouse and minor children under the age of 18 years working for an individual proprietor are exempt from the provisions of this chapter. If such individuals are employed by a partnership, the exemption only applies if such a relationship exists between the worker and each member of the partnership. This exemption is not applicable to corporations or to limited liability companies.

23.18(7) *Partners.* Bona fide partners are not considered employees even though they receive salaries.

23.18(8) *Apprentices-clerks.* This chapter makes no exceptions for persons serving a clerkship or other form of apprenticeship.

23.18(9) *Members of a limited liability company.* Members of a limited liability company that perform services other than for the purpose of acquiring membership in the limited liability company are employees.

This rule is intended to implement Iowa Code section 96.1A(16).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.19(96) Employer-employee and independent contractor relationship.

23.19(1) The relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. An employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so. The right to discharge or terminate a relationship is also an important factor indicating that the person possessing that right is an employer. Where such discharge or termination will constitute a breach of contract and the discharging person may be liable for damages, the circumstances indicate a relationship of independent contractor. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools, equipment, material and a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, that individual is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules.

23.19(2) The nature of the contract undertaken by one for the performance of a certain type, kind, or piece of work at a fixed price is a factor to be considered in determining the status of an independent contractor. In general, employees perform the work continuously and primarily their labor is purchased, whereas the independent contractor undertakes the performance of a specific job. Independent contractors follow a distinct trade, occupation, business, or profession in which they offer their services to the public to be performed without the control of those seeking the benefit of their training or experience.

23.19(3) Independent contractors can make a profit or loss. They are more likely to have unreimbursed expenses than employees and to have fixed, ongoing costs regardless of whether work

is currently being performed. Independent contractors often have significant investment in real or personal property that they use in performing services for someone else.

23.19(4) Employees are usually paid a fixed wage computed on a weekly, hourly or piece basis while an independent contractor is usually paid one sum for the entire work, whether it be paid in the form of a lump sum or installments. The employer-employee relationship may exist regardless of the form, measurement, designation or manner of remuneration.

23.19(5) The right to employ assistants with the exclusive right to supervise their activity and completely delegate the work is an indication of an independent contractor relationship.

23.19(6) Services performed by an individual for remuneration are presumed to be employment unless and until it is shown to the satisfaction of the department that the individual is in fact an independent contractor. Whether the relationship of employer and employee exists under the usual common law rules will be determined upon an examination of the particular facts of each case.

23.19(7) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

23.19(8) All classes or grades of employees are included within the relationship of employer and employee. For example, superintendents, managers and other supervisory personnel are employees.

This rule is intended to implement Iowa Code section 96.1A(16).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.20(96) Employment—student and spouse of student. Wages earned by a student who performs services in the employ of a school, college or university at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) are not covered wages.

Wages earned by an individual who is a full-time employee for a school, college or university whose academic pursuit is unrelated to the full-time employment are covered wages.

Wages earned by the spouse of such a student in employment with the educational institution attended by the student are not covered wages if the employee-spouse is told prior to starting employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.21(96) Excluded employment—student. Wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit that combines academic instruction with work experience are normally excluded from the definition of employment, provided that no work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly scheduled vacation and for which such student receives no academic credit shall be excluded from said definition.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.22(96) Employees of contractors and subcontractors.

23.22(1) If one employer contracts with another employing unit for any work that is part of the first employer's usual business, the first employer is liable for any contributions based on wages paid by the second employing unit in connection with the work if the second employing unit is not liable to pay contributions.

23.22(2) Employees of the second contractor are counted as employees of the first contractor while performing services on the contract for the first contractor.

This rule is intended to implement Iowa Code section 96.1A(15).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.23(96) Liability of affiliated employing units. A nonliable employer shall be liable if the employer owns one or more employing units (or business units) and the combined employment has paid wages for service in employment in a calendar quarter in either the current or preceding year.

This rule is intended to implement Iowa Code section 96.1A(15).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.24(96) Localization of employment—employees covered—exemption. When workers perform services in more than one state, the department will review each case individually and make a determination whether wages are reportable to Iowa based on the following guidelines in sequence:

23.24(1) Services performed in only one state are considered localized in that state regardless of where the employer is located. The services do not have to cover the entire reporting period. The wages are reportable to the state where the services are performed.

23.24(2) Where services are performed among two or more states in a reporting period, the base of operations is considered. The base of operations is the point from which the workers start and finish their work on a regular basis, and that is the state to which the wages are reportable. In this type of case, the department has the right to waive Iowa coverage to another jurisdiction (state of the base of operations) as long as the employee is properly covered by the other state.

23.24(3) When workers perform services in more than one state and there is no base of operations in any one state, the state from which the worker is immediately directed and controlled is the state to which the wages are reportable provided that some services are performed by the worker in that state.

23.24(4) If the services of the workers are not localized in a state, the base of operations is not involved or the place where services are directed and controlled is not applicable, then the wages are reportable to the state in which the worker resides, provided some services are performed in that state.

This rule is intended to implement Iowa Code section 96.1A(16)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.25(96) Domestic service.

23.25(1) Services of a household nature performed by an individual in or about the private home of the person by whom the individual is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which the individual is employed are included within the term "domestic service."

23.25(2) A private home is the fixed place of abode or residence of an individual or family, including the house and the lands on which the house stands.

23.25(3) Services of a general household nature are those ordinarily and customarily performed as an integral part of the upkeep operation and maintenance of a dwelling, residence or private home. In general, covered services of a household nature in or about a private home include services rendered by workers such as cleaning persons, cooks, maids, housekeepers, caretakers, yard workers and similar domestic workers. In addition, services performed by babysitters, nannies, health aides and similar workers for members of the household are covered.

23.25(4) The services enumerated above are not covered under the term "domestic service" if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, offices or other commercial enterprises.

23.25(5) The term "domestic service" does not include the service of an individual engaged in recognized independent craft not habitually rendered as a part of ordinary household duties. In situations where it may be necessary to determine whether or not an employer-employee relationship exists between the householder and the household worker, the guidelines as set forth in rule 871—23.19(96) will be applied.

23.25(6) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purpose of this exception, the statutory tests are the type of

services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university where the term "school, college, or university" is taken in its commonly or generally accepted sense.

23.25(7) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include but are not limited to services rendered by cooks, janitors, laundry persons, furnace persons, handy persons, gardeners and housekeepers.

23.25(8) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed there are not covered under the term "domestic service."

23.25(9) Where an individual is employed by a domestic service or home health care organization to perform domestic services in a private home, the individual is an employee of the service firm, not the householder.

This rule is intended to implement Iowa Code section 96.1A(11) and 96.1A(14)*"m."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.26(96) Definition of a farm—agricultural labor.

23.26(1) "Farm" as used in Iowa Code section 96.1A(16)*"g"*(3) and in these rules means one or more plots of land not necessarily contiguous, including structures and buildings, used either primarily for raising or harvesting any agricultural or horticultural commodity, including caring for and the raising, shearing, feeding, training, and management of livestock, bees, poultry and furbearing animals and wildlife or both such uses, if the activities conducted have an agricultural purpose.

23.26(2) The definition of farm in subrule 23.26(1) includes but is not limited to nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities. A plot of land used primarily for the raising of nursery stock from seeds, cuttings or transplanted stock is a farm. If any plot of land is used both for the raising of nursery stock and for display of nursery stock or allied products for sale, the parcel or portion is not a farm if the raising is not the primary operation. A parcel of real property or a portion of a parcel of real property that is used primarily to display nursery stock for sale or to display an allied product for sale, or both, is not a farm. Allied product, as used in this rule, includes but is not limited to garden supplies, lawn supplies, tools, equipment, fertilizers, sprays, insecticides or pottery.

23.26(3) If other than incidental sales of an allied product are made in connection with a nursery, the operations in connection with the sales area are commercial operations as distinguished from ordinary farm operations and services performed with respect to the sales areas are not agricultural labor.

23.26(4) A plot of land used primarily for the raising of Christmas trees is a farm.

23.26(5) The following shall be used to determine whether services are defined as agricultural labor.

a. Services performed by an individual on a farm, employed by the owner, tenant or operator, in connection with the operation constitutes agricultural labor if:

(1) The services are on the farm on which the materials in their raw or natural state were produced, and

(2) Processing, packing, packaging, transportation, or marketing is carried on as incidental to ordinary farming operation.

b. If the service performed is incidental to industrial, manufacturing or commercial operation, it does not constitute agricultural labor. EXAMPLE: Services performed for an insurance company in repair and construction of farm buildings do not constitute agricultural labor.

23.26(6) Services performed on nonfarm property by an employee of one who is not the owner, tenant or operator of the farm to which the operation relates or any service rendered in connection with the maintenance and repair of equipment, used in operation on the farm, as well as related collection, clerical and bookkeeping services, are not agricultural labor.

23.26(7) Services performed in the handling or processing of any agricultural or horticultural commodity are agricultural employment if performed by an employee of the owner, tenant, or other farm operator, only if the commodity is in a nonmanufactured state and only if the operator produced more than half of the commodity with respect to which the service was performed.

23.26(8) Aerial seeding, fertilizing, spraying, dusting, custom planting, cultivating or combining of farm acres by an employee of any agricultural enterprise is agricultural labor. This includes mixing or loading into an airplane the spraying or dusting material, as well as the measuring of the swaths and the marking and flagging of the fields, and is considered agricultural as long as it is performed on a farm. If any of these services are performed on property other than a farm, they are not agricultural labor and are covered by other provisions of the Iowa employment security law.

23.26(9) If the employer does not own or operate the farm that is being sprayed or dusted, any service related to employees in connection with maintenance and repair of the aircraft, trucks, or other equipment used in those operations, as well as related collection, clerical and bookkeeping services, are not agricultural labor and are not exempt under the Iowa employment security law.

23.26(10) Services performed on a farm by an employee of any person in connection with hatching poultry are agricultural labor. A plot of land together with the structures and buildings located off the farm, devoted to the hatching of poultry, is not considered to be a farm. Any service, under any contract of hire, performed off the farm in connection with the hatching of poultry is not considered agricultural labor.

23.26(11) Executive, supervisory, administrative, clerical, stenographic, and office work are not agricultural labor even if performed on a farm and in relation to a farm.

23.26(12) Services performed on a farm incidental to the overall commercial activities that are not incidental to ordinary farming operation or directly related to the farming operation are not agricultural labor.

23.26(13) Services performed in connection with the processing of agricultural commodities performed on a farm, for a farm operation, are not agricultural labor unless one-half or more of the commodities processed are produced by the farm operator.

23.26(14) Services performed in agricultural employment as defined in Iowa Code section 96.1A(16)*"g"*(3) or rule 871—23.26(96) by an agricultural employee for one-half or more of any calendar month are considered agricultural employment the whole of that calendar month.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.27(96) Exempt employment in the employ of a church, association of churches or an organization that is operated primarily for religious purposes.

23.27(1) The word "church" is used in its limited sense and is synonymous with an individual house of worship maintained by a particular congregation. Any service by an individual for a church, convention or association of churches is excluded from coverage. However, the exclusion does not apply to service performed for an organization that may be religious in orientation unless it is operated primarily for religious purposes and is operated, supervised, controlled or principally supported by a church (or a convention or association of churches). Thus, the service of the janitor of a church is excluded, but the service of a janitor for a separately incorporated college, although it may be church-related, is covered.

23.27(2) Service for a college devoted primarily to the preparation of students for the ministry is exempt, as is service for a novitiate or a house of study, training candidates to become members of religious orders. However, this chapter does not consider a church-related (separately incorporated)

charitable organization (such as an orphanage or a home for the aged) to be operated primarily for religious purposes.

23.27(3) The exclusion of service performed by ministers in the exercise of their ministry and by members of a religious order in performing the duties required by such order applies only when such service is performed for nonprofit organizations ordinarily required to be covered by the Iowa employment security law.

23.27(4) A minister is ordained, commissioned, or licensed if such minister has been vested with ministerial status in accordance with the procedure followed by the particular church denomination. Such minister does not have to be connected with a congregation. Ministerial authority continues until revoked by the church.

23.27(5) The term "exercise of the ministry" includes the conduct of religious worship and the ministration of sacerdotal functions; service performed in the control, conduct, and maintenance of a religious organization under the authority of a religious body constituting a church or church denomination or an organization operated as an integral agency of such a religious organization or of a church or church denomination; service performed for any organization under an assignment or designation by a church (not including cases in which a church merely helps a minister by recommending such minister for a position involving nonministerial services for an organization not connected with the church); and missionary service or administrative work in the employ of a missionary organization. Control, conduct, and maintenance of an organization does not include services such as operating an elevator, or being a janitor, but refers to services performed in the directing, management, or promotion of the activities of the organization.

23.27(6) Accordingly, service of clergy as a chaplain in an orphanage or in an old-age home is excluded since such service is in the exercise of a ministry as is the service of members of a teaching or nursing order who are engaged in teaching or nursing. In the case of a member of a religious order, the criterion is whether the order requires the performance of such service.

23.27(7) School coverage.

a. Schools that are not separately incorporated and are affiliated with a church are exempt from insured employment because their employees are in the direct employ of a church or convention or association of churches.

b. Schools that are separately incorporated and are affiliated with a church are exempt from insured employment if such schools are operated primarily for religious purposes.

c. Schools that are not affiliated with a church are covered employers with covered employment.

"Affiliated" as used in this rule means operated, supervised, controlled, or principally supported by a church or convention or association of churches. A school that is operated primarily for religious purposes must have as its chief and principal purpose for operation a religious orientation. The school must have as its purpose of first or highest rank of importance the religious indoctrination of its students.

This rule is intended to implement Iowa Code section 96.1A(16)*"a"*(6)(a) and (c).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.28(96) Successor.

23.28(1) "Successor employer" means an employing unit that:

a. Acquired, and continues to operate, the organization, trade or business, or substantially all the assets of an employing unit that were subject to the provisions of Iowa Code chapter 96 prior to the acquisition, regardless of whether the acquirer was an employing unit prior to the acquisition.

b. Acquired a severable portion of the business of an employer who is subject to Iowa Code chapter 96 if:

(1) The portion of the business or enterprise acquired would have qualified as an "employer" pursuant to Iowa Code section 96.1A(14)*"a."*

(2) A request for a transfer of experience of the severable portion was made within 90 days of the transfer date.

(3) The transfer request contains information required by the department and is approved by both the predecessor and department.

23.28(2) An "organization," "trade" or "business" as used in Iowa Code section 96.1A(14)*"b"* is acquired if an employing unit acquires factors of an employer's organization, trade or business sufficient to constitute an entire existing going business unit, not merely assets from which a new business may be built. Acquisition is determined by examining all of the factors of the transfer, including:

a. Place of business.
b. Employees.
c. Customers.
d. Good will.
e. Trade name.
f. Stock in trade.
g. Tools and fixtures.
h. Other assets.

23.28(3) As used in Iowa Code section 96.1A(14)*"b,"* "substantially all of the assets" means substantially all of the assets of any employer that generate substantially all of the employment, except those retained for liquidation.

23.28(4) A "segregable and identifiable part" of enterprise as used in Iowa Code section 96.7(3)*"b"* is acquired if an employing unit acquires factors of an existing organization, trade or business sufficient to constitute an existing separable going business unit, not merely assets from which a new business may be built. Acquisition of a distinct and severable portion is determined by examining all the factors, including:

a. Place of business.
b. Employees.
c. Customers.
d. Good will.
e. Trade name.
f. Stock in trade.
g. Accounts receivable.
h. Tools and fixtures.

23.28(5) "Successor liability" as used in Iowa Code chapter 96 and these rules occurs for the acquiring employing unit when there is a transfer of assets necessary to the continued operation of the employing unit from the predecessor to the successor and the successor continues to operate the business as though there has been no change in ownership or control.

23.28(6) Successor liability will be found to occur if an enterprise or business is leased to a covered employer and any party or entity purchases or assumes the covered employer's lease, or any party or entity acquires a new lease and substantially all of the assets of the covered employer, and the new lessee continues the operation of the enterprise or business as though there had been no change in the ownership or control of the enterprise or business, such party or entity acquires the covered employer's experience.

23.28(7) The department will utilize the following general criteria when establishing successorship in specialized cases:

a. Where a covered employing unit is operating an enterprise or business under a lease agreement and it is terminated, there will be no transfer of the covered employing unit's experience unless the lessor takes over and continues to operate the enterprise or business in which case the lessor will be considered the successor to the covered employer's experience.

b. Where an enterprise or business is leased to a covered employing unit, and the lease agreement has terminated with the lessor acquiring a new lessee, the new lessee is not considered to

be a successor to the experience of the predecessor lessee unless the new lessee acquires substantially all of the assets of the predecessor lessee and the new lessee continues the operation of the enterprise or business to the same basic extent as though there had been no change in the ownership or control of the enterprise or business.

c. A franchise agreement will be treated the same as a lease agreement.

d. If the bankruptcy court closes an enterprise or business, the court becomes the agent for the bankrupt employer.

(1) Where the court closes the enterprise or business and starts liquidating procedures, the employer's account is placed in an inactive status subject to termination and no successorship or transfer of the employer's experience is involved, or

(2) If the court appoints a trustee or receiver to continue the operation of the enterprise or business, the account address will be corrected to include the name of the trustee or receiver for mailing purposes. If the trustee or receiver obtains a new federal identification number for this business, a new account number will be established for the trustee or receiver as a successor to the original enterprise or business. If the trustee or receiver sells the enterprise or business as a going enterprise, the new owner will be a successor to the predecessor's experience.

e. If a covered employer is forced out of business through foreclosure proceedings, there will be no transfer of the employer's experience unless the mortgagee takes over the operation of the business or enterprise and continues it to the same basic extent as though there had been no basic change in the ownership control.

This rule is intended to implement Iowa Code sections 96.7(3)*"b,"* 96.8 and 96.1A(14)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.29(96) Transfer of entire business.

23.29(1) *Notice of acquisition.*

a. Whenever an employing unit in any manner succeeds to or acquires from an employer either the organization, trade or business or substantially all the assets thereof, and continues such organization, trade or business, such employing unit shall notify the department to transfer the account of the predecessor employer to the successor employing unit. The notification must include the name and address of the predecessor, the date of transfer, and the name and address of the successor. When the department receives the notice, or alternatively, when the department receives through other means information establishing the acquisition, the actual contribution and benefit experience and taxable payrolls of the predecessor will be transferred to the successor employing unit to determine its rate of contribution. Thereafter, benefits chargeable are charged to the account of the successor. The predecessor must notify the department of the status change.

b. Where one or more employing units have been reorganized, merged or consolidated into a single employing unit and the successor employing unit continues to operate the merged or consolidated enterprise, the employing units involved shall notify the department within 30 days from the date of the transaction. All entities involved in the merger shall provide the articles of merger or, if there are no articles of merger, a statement advising of the merger.

(1) The predecessor business or businesses involved in the merger shall each file a final quarterly payroll report form as soon as possible after the merger has occurred but in no case later than 30 days after the close of the quarter in which the merger was effective.

(2) The successor entity shall indicate whether the experience rates of all accounts are to be combined and the rate recomputed for the balance of the calendar year in which the merger took place.

23.29(2) *Contribution rate.* The successor's contribution rate for the remainder of the calendar year in which an acquisition took place is determined as follows:

a. If the successor had no account prior to the transfer and the successor purchased the business of only one predecessor, or more than one predecessor with identical rates, the rate assigned will be the rate of the predecessor employer or employers.

b. If the successor had no account prior to the transfer and purchased the business of more than one predecessor with the same legal date of transfer, the rate assigned will be a computed rate based on the combined experience of all the predecessor employers.

c. If the successor in a merger had an account prior to the transfer, the rate assigned will be the successor's current rate. However, the successor may apply for a recomputed rate based on the combined experience of all predecessors and the experience of the successor only if the legal date of transfer is prior to October 1 in the year it took place.

This rule is intended to implement Iowa Code section 96.7(2)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.30(96) Successorship—liability for contributions and payments in lieu of contributions. Any employer who becomes a successor to an employer account is liable for any debt owed to the department by the predecessor at the time of the transfer. Any employer found to be successor to a reimbursable account is liable to reimburse the department for any benefits paid based on wages paid by the reimbursable employer, whether or not the successor has elected to be reimbursable or is qualified to be reimbursable.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.31(96) Transfer of segregable portion of an enterprise or business.

23.31(1) *Application and required information.*

a. Partial experience will be transferred to an employing unit that has acquired such portion only if the successor employing unit:

(1) Submits a registration online within 90 days of the legal date of transfer;

(2) Provides necessary information showing the separate identity of the accounts within 30 days after request is made by the department unless the time has been extended for good cause; and

(3) Continues to operate the acquired part of the business or organization.

b. Information required to demonstrate the separate identity of the account includes but is not limited to:

(1) Predecessor signed department forms 68-0068 and 68-0065 report of employer on transfer of one of two or more employing units.

(2) Legal date of transfer for the portion of the business.

(3) Start date for the portion of the business by the predecessor.

(4) Names, social security numbers and wages of the employees acquired for the six calendar quarters prior to the quarter in which the acquisition took place.

(5) Predecessor and successor names, address, account numbers and total taxable wages and benefit charges being transferred by quarter for the 20 calendar quarters including and prior to the legal date of transfer.

c. It is the responsibility of the successor employer to decide whether to apply for a partial transfer of experience. A partial transfer request may be withdrawn prior to the department's notice that the transfer has been approved.

d. It is the responsibility of the predecessor employer to decide whether to grant the partial transfer of experience. Permission to grant the partial transfer of experience may be withdrawn prior to the department's notice that the transfer has been approved.

23.31(2) *Portion of reserve and payroll transferred.* When the requirements for partial transfer as defined in subrule 23.31(1) have been met, the transfer shall be made in accordance with one of the following:

a. If the predecessor's account has been in existence less than five years prior to the legal date of transfer (or more than five years when records are available), the information necessary to calculate future rates will be transferred; or

b. If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years:

(1) The actual taxable wages, and benefit charges attributable to the acquired portion for the five-year period prior to the legal date of transfer will be transferred, plus

(2) The portion of the predecessor's benefit charges for the period commencing with the beginning date of the predecessor's account and ending five years prior to the legal date of transfer equal to the ratio of the taxable wages attributable to the acquired predecessor for the 12 completed calendar quarters immediately preceding the legal date of transfer to the total taxable wages reported by the predecessor for the same 12-quarter period, and

(3) The individual wage records attributable to the acquired portion; or

c. If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, benefit charges, and individual wage records attributable to the acquired portion will be transferred; or

d. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

23.31(3) *Future benefit charges based on wages paid by the predecessor prior to the acquisition or purchase date.* The successor employer will be charged for future benefits based on the wage credits transferred to its account for the six-quarter period prior to the acquisition date plus any benefit charges based on wages attributable to the acquired portion prior to the six-quarter period on claims already filed on the date of the acquisition.

23.31(4) *Notification of approval or denial of transfer and appeals.*

a. Upon review of the application and information indicating a partial transfer, the department will issue a decision approving or denying the transfer. A determination approving a partial transfer request will include the current year's unemployment tax rates for both parties.

b. If the department finds that the acquisition of a business or a severable portion thereof was made solely or primarily for the purpose of obtaining a more favorable rate of contribution (e.g., the department fails to find any reasonable business purpose for the acquisition other than a more favorable contribution rate), the transfer will not be approved.

c. Any denial of a partial transfer is final and shall become conclusive and binding upon both the predecessor and successor unless one or both of them file an appeal according to this chapter.

23.31(5) *Liability of successor for contribution.* Any individual or organization, whether or not an employing unit, that is determined by the department to be a successor is liable for the payment of contribution, interest and penalty due from the predecessor if the department concludes that such contributions cannot be collected from the predecessor.

This rule is intended to implement Iowa Code section 96.7(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.32(96) Mandatory and prohibited successorships.

23.32(1) This rule applies to the mandatory successorship in Iowa Code section 96.7(2)*"b"*(2) and the prohibited successorship in Iowa Code section 96.7(2)*"b"*(3). If one employing unit receives the organization, trade or business, or a portion thereof of an employing unit and there is substantially common ownership, management or control of the two, the attributable unemployment experience will be transferred. This rule does not require a transfer of substantially all of the assets nor does it require the transferred portion to be segregable or identifiable. The acquiring employer must continue to operate the organization, trade or business or must transfer operation to an entity with substantially common ownership, management or control with the acquiring entity. Mandatory successorship also applies when the acquirer was not an employing unit prior to the transfer.

a. A transfer of staff and the business activity of that staff to an acquiring employer unit that continues to operate the portion of the business will establish mandatory successor liability.

b. The mandatory and prohibited successorships contained in Iowa Code section 96.7(2)*"b"*(2) and 96.7(2)*"b"*(3) apply to corporations, limited liability companies, government or governmental subdivisions or agencies, business trusts, estates, trusts, partnerships, sole proprietorships or associations, or any other legal entity as defined in Iowa Code chapter 96.

c. "Substantially common ownership, management or control" is determined from the facts of a particular case. Among the factors to be considered are:

(1) The authority to make policy decisions.

(2) The authority to perform personnel actions.

(3) Direction and control of the day-to-day operations.

(4) Financial investment.

(5) Substantial or complete ownership by the same legal entity or entities.

(6) Ability to conduct or liability for financial transactions on behalf of the business.

(7) Authority to commit the business assets.

(8) Common management, which may include direction or overall supervision by an individual or group of individuals.

d. For a mandatory full successorship, the tax rate shall be established as provided in subrule 23.29(2), and for a mandatory partial successorship, the tax rate shall be established as provided in subrule 23.32(4).

23.32(2) In determining whether or not an acquiring entity continues to operate an organization, trade or business as used in Iowa Code section 96.7(2)*"b"*(2), the following rules apply:

a. The acquiring entity continues the ongoing business operation (taking into account any seasonal or prior operational pattern) and continues the same business activity as the prior employer. A temporary cessation of the business activity by the acquiring entity will not constitute a discontinuance of the business.

b. The acquiring entity, not having operated the business, reassigns or otherwise transfers the operation of the business to a third-party entity that has substantially common ownership, management or control with the acquiring entity. The third party is considered to be continuing the operation of the original entity.

23.32(3) Prohibited successor liability. Successor liability is prohibited when the department finds that a legal entity that is not subject to Iowa Code chapter 96 at the time of acquisition (regardless of whether common ownership, management or control exists) acquires an organization, trade or business solely or primarily for the purpose of obtaining a lower rate of contribution. Factors to be considered include:

a. The existing employer account has a tax rate less than would be assigned to a new employer,

b. The cost of acquiring the organization, trade or business as compared with any potential savings in contributions costs,

c. The acquiring entity substantially changed the organization, trade or business after a short period of time, and

d. A substantial number of new employees were hired to perform duties unrelated to the organization, trade or business operated prior to the acquisition.

23.32(4) When a mandatory transfer of a portion of a business occurs, the successor's experience and contribution rate will be determined as follows:

a. The experience transferred to the acquiring employing unit will be based on the percentage of employees moving from the predecessor to that unit.

(1) The percentage will be computed by comparing the number of employees on the successor's first quarterly report covering a complete calendar quarter to the average number of employees on the four complete quarterly reports filed by the predecessor immediately preceding the transfer. The average number of employees will be computed using only the predecessor's reports that have wages paid during those four quarters.

(2) Using this percentage, taxable wages and benefit charges, commencing with the beginning date of the predecessor's account, will be transferred from the predecessor's account to the successor's account.

b. If the successor had no account prior to the transfer, the rate assigned will be the rate of the predecessor for the remainder of the calendar year beginning with the date of acquisition.

c. If the successor already had an account prior to the transfer, the rate for the balance of the year in which the transfer took place will be recomputed by combining the transferred experience with the employer's own experience as of the last computation date.

d. For the years following the year of acquisition, the rates will be computed using the experience of the employer combined with the transferred experience.

e. Future benefit(s) will be charged to the base period employer who reported the base period wages.

f. The department will issue a notification when the partial transfer has been completed. The determination will include notice to both parties as to their contribution rate for the current year.

g. Any rate determination resulting from a partial transfer will become final unless one or both of the parties file an appeal. Specific procedures and requirements for perfecting an employer liability determination appeal are contained in rule 871—23.52(96).

h. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

23.32(5) Penalty contribution rate. The department may assess a penalty contribution rate of 2 percent for the current year and two subsequent years for an employer that the department finds has attempted to manipulate and circumvent the proper unemployment tax rate as provided in Iowa Code section 96.7(2)*"b"*(2) and 96.7(2)*"b"*(3) by deliberate nondisclosure of a material fact.

a. The employer will be notified of the penalty contribution rate.

b. If, after a liability determination has been issued, the department discovers, based upon new facts not available to the department at the time the determination was made, that a previously nonliable entity acquired a business solely or primarily to obtain a lower tax rate, the department will amend the original determination and assign a new employer rate and may provide a penalty contribution rate.

c. Interest will accrue on unpaid penalty contributions in the same manner as on regular contributions.

This rule is intended to implement Iowa Code sections 96.7(2)*"b"* and 96.16(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.33 to **23.35** Reserved.

871—23.36(96) Predecessor—contribution rates for winding down a business. If a predecessor has transferred its organization, trade, or business, or substantially all assets, to a successor, and the predecessor continues to operate a part of the business in order to wind down or close the business after the legal date of transfer, the predecessor will be issued a new account number and treated as a new employer for wages paid beyond four quarters after the legal date of transfer. "Wind down wages" do not include wages earned before the sale or transfer of the business that were paid out within the four quarters after the quarter in which the sale or transfer took place.

This rule is intended to implement Iowa Code section 96.8(1) and 96.8(4)*"a."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.37(96) Adjustments and refunds of contributions.

23.37(1) If an employer, after submitting a quarterly unemployment tax report, discovers an error that results in an overpayment of contribution due and owing, such employer may file an application for credit allowance or refund. If the department discovers that the contribution submitted by any employer is incorrect, resulting in overpayment of contribution, it may on its own initiative refund or make a credit allowance. No refund or credit will be made after three years from the date on which the overpayment was made. The employer will submit a wage adjustment to show corrections for the employee wage lines impacted, corrected total and taxable wages, and an explanation for the wage adjustment.

23.37(2) If an employer submits a quarterly unemployment tax report that understates the amount of wages paid in a calendar quarter, the employer will submit a wage adjustment for the period and make payment for all additional contributions, penalty and interest due.

a. If it is apparent, upon review of wages reported or adjusted, that an employer has overpaid contribution, the department may make an adjustment and issue a credit within three years from the date of the overpayment. If an employer has multiple accounts, any credit may be moved to an account where there is a balance due.

b. If an employer discovers that it may have overpaid contribution, it may submit a request for credit within three years from the date on which the overpayment was made. The department will review the request and, if it determines an adjustment is required, shall issue a credit or refund for the overpayment.

23.37(3) A valid credit will be applied to an outstanding balance due on an unemployment tax account. If an employer has multiple accounts, a credit can be moved to a different account where debt might be owed. An employer may request a refund of the credit within three years from the date the credit was created. If the credit is not requested within three years, it will be canceled by the department. Upon request of the employer or at the discretion of the department, a refund can be issued for any overpayment. If the employer fails to utilize the credit as provided above, the department shall, three years from the date of issuance, cancel the credit and show it as a nonrefundable credit. Warrants are issued by the state comptroller.

This rule is intended to implement Iowa Code section 96.14(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.38(96) Denial of claim for refund or credit. If the department requests proof of the validity of any claimed credit, and the employing unit fails to provide the proof within 30 days, the claim will be denied unless the department has provided an extension of time to provide the information.

This rule is intended to implement Iowa Code section 96.14(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.39 Reserved.

871—23.40(96) Computation of rates for private sector employer. An employer's experience rate shall be computed by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding July 31 of each year by the employer's five-year average annual taxable payroll to determine its benefit ratio. This ratio is then applied to the current tax rate table to determine the employer's contribution rate for the next calendar year. Contributory Indian tribes are considered private sector employers for the purpose of computing their contribution rate.

This rule is intended to implement Iowa Code sections 96.7(2), 96.7(11), 96.7(12) and 96.1A(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.41(96) Computation date defined. The computation date for determining tax rates for future years is July 1. Rate computation includes all taxable wages and benefit charges for the quarters prior to and ending on June 30 immediately prior to the computation date. Delinquent reports filed after September 30 immediately following the computation date will not be used in the current year's tax rate computation.

This rule is intended to implement Iowa Code section 96.1A(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.42 Reserved.

871—23.43(96) Charging of benefits to employer accounts.

23.43(1) *Benefits paid to an eligible claimant.* Benefits paid to an eligible claimant are charged against the base period wage credits in the same inverse chronological order in which the wages were paid to the claimant.

23.43(2) *Formula for charging employer accounts.*

a. Wage credits in the most recent quarter of the base period will be used first, and when wage credits in this quarter are exhausted, wage credits for the next most recent quarter will be used until each of the four quarters in the base period is exhausted or until the claimant is paid an amount not to exceed the claimant's maximum benefit amount.

b. Each employer who has wage credits in the quarter of the base period will be charged the employer's proportional share of each payment. The proportional share to be charged to each employer in a specific quarter will be based upon the total employer wage credits within that quarter.

23.43(3) *Rule of two affirmances.*

a. Whenever an administrative law judge affirms a decision of the representative or the employment appeal board affirms the decision of an administrative law judge, allowing payment of benefits, such benefits will be paid regardless of any further appeal.

b. However, if the decision is subsequently reversed by higher authority:

(1) The protesting employer involved will have all charges removed for all payments made on such claim.

(2) All payments to the claimant will cease as of the date of the reversed decision unless the claimant is otherwise eligible.

(3) No overpayment will accrue to the claimant because of payment made prior to and during the period in which the department is processing the reversal decision.

23.43(4) *Supplemental employment.*

a. An individual who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges.

b. On a second benefit year claim where the individual worked only for the part-time employer during the base period and the lag quarter, the part-time employer is not considered for relief of benefit charges with the onset of the second benefit year. It is the part-time employer's responsibility to notify the department of the part-time employment situation so the department may render a decision as to the availability of the individual and benefit charges. The individual is required to report gross wages earned in the part-time employment for each week claimed, and the wages will be deducted from any benefits paid in accordance with Iowa Code section 96.3(3).

c. An individual who voluntarily quits supplemental part-time employment without good cause and who has not requalified for benefits following the voluntary quit of supplemental part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, will not be disqualified for voluntarily quitting without good cause the supplemental part-time employer.

d. The individual and the supplemental part-time employer that was voluntarily quit without good cause will be notified of the decision made by a department representative, via the Decision of the Workforce Development Representative form, that benefit payments that are based on the wages paid by the supplemental part-time employer shall not be made and benefit charges shall not be assessed against the supplemental part-time employer's account; however, once the individual meets the requalification requirements following the voluntary quit without good cause of the supplemental part-time employer, the wages paid in the supplemental part-time employment will be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

23.43(5) *Sole purpose.* The claimant is eligible for benefits, even though the claimant voluntarily quit, if the claimant left for the sole purpose of accepting an offer of other or better employment,

which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge will accrue to the account of the former voluntarily quit employer.

23.43(6) *Department-approved training.* A claimant who qualifies and is approved for department-approved training (rule 871—24.39(96)) shall continue to be eligible for benefit payments. No contributing employer shall be charged for benefits that are paid to the claimant during the period of the department-approved training. The relief from charges does not apply to the reimbursable employer that is required by law or election to reimburse the trust fund, and the employer shall be charged with the benefits paid.

23.43(7) *Ten times the weekly benefit amount in insured work requalification.*

a. In order to meet the provision regarding ten times the weekly benefit amount in insured work requalification, the following criteria must be met:

Subsequent to leaving or refusing work, the individual shall have worked in (except in back pay awards) and been paid wages equal to ten times the claimant's weekly benefit amount.

b. An employer's account will not be charged with benefit payments to an eligible claimant who quit such employment without good cause attributable to the employer or who was discharged for misconduct or who failed without good cause either to apply for available, suitable work or to accept suitable work with that employer but shall be charged to the balancing account.

c. The requalification and transfer of charges will occur for the employer if the requalifying employment is earned with an out-of-state covered employer. The transfer of charges will be made to the balancing account.

d. Periods of insured employment with separate employers may be joined to collectively equal ten times the individual's weekly benefit amount when requalification cannot be accomplished by an individual insured employer. The employer from whom the individual left work or was discharged or with whom the individual failed to apply or accept suitable work will not accrue any charges.

e. Before benefits can be paid or the transfer of charges can occur, sufficient evidence must be present to establish the fact that the criteria in paragraph 23.43(8)*"a"* has been met. Verification of employment may be completed through the records of the department or by using any method establishing proof of the necessary wage credits, including the following:

(1) An employment verification form is an affidavit prepared in duplicate stating the insured employer's name, mailing address, the starting date of employment, and wages paid subsequent to that date. The form must be signed by the claimant alleging that the facts are correct. Any misrepresentation in the form may result in overpayment, fraud charges, an administrative penalty, or any or all thereof. A copy of the form must be mailed to the employer or employers for verification. The employer should review the information on the form and certify that it is either correct or in error. If the information is incorrect, the employer should give the proper information. If the employer fails to return the form within five days of date mailed, the information on the form will be presumed to be correct.

(2) Employment check stubs may be used in conjunction with the employment verification form to indicate the requalifying period.

23.43(8) *Combined wage claim transfer of wages.*

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state.

(1) No reimbursement so payable may be charged against a contributory employer's account for the purpose of Iowa Code section 96.7 unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges may not exceed the amount that would have been charged on the basis of a valid Iowa claim.

(2) An employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the

paying state's law. Charges are assessed to the employer that are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges will go to the balancing account.

c. Requests received from the paying state for amounts in excess of an amount equal to potential charges of an Iowa claim will not be charged to the Iowa employer.

d. When Iowa is the paying state on an interstate claim and Iowa wage credits are insufficient to have a valid Iowa claim, charges will not be made against the Iowa employer's account but will be charged to the balancing account.

23.43(9) *Extended benefits.*

a. Fifty percent of the amount of each week of extended benefits paid to an individual in accordance with rule 871—24.46(96) shall be charged against the account of the employer that is chargeable for the extended benefits; however, 100 percent of the amount of each week of extended benefits paid to an individual shall be charged against the account of the Indian tribal and governmental contributory or reimbursable employer that is chargeable for the extended benefits.

b. The lack of a one-week waiting period prohibits this state from receiving a payment from the U.S. Department of Labor for 50 percent of the amount of the first week of extended benefits paid to an individual. This amount will not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

c. In the event that a payment from the U.S. Department of Labor for 50 percent of any week of extended benefits paid to an individual is reduced under an order issued under Section 252 of the United States Balanced Budget and Emergency Deficit Control Act of 1985, the amount of the reduction may not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

23.43(10) *Charging of benefits paid to individuals employed by two or more employers.*

a. Whenever wage reports submitted to the department show the employment of an individual by more than one employer in the same calendar quarter, benefits shall be charged to each employer's account in the same proportion as wages paid in the quarter.

b. Benefits for partial unemployment shall be charged in the same manner as benefits for total unemployment.

23.43(11) *Government contributory charges.* For the purpose of determining the base rate for government contributory employers, a percentage of all benefits that are paid but are not chargeable to employer accounts because of various provisions of the law will be considered as belonging to government contributory employers. The percentage of the nonchargeable benefits considered to be attributable to government contributory employers for each calendar year will be determined by the ratio of the benefits actually charged to government contributory accounts for the year to the total benefits charged to all contributory accounts for the year.

23.43(12) *Removal of benefit charges upon the sale or transfer of a clearly segregable part of an employer's business or enterprise when the acquiring employer does not receive a partial transfer of experience.* Benefits based on wages earned with the transferring employer, paid to an individual who worked in and was paid wages for work with the acquiring employer, shall be transferred to the balancing account. The transferring employer must protest this issue on the Notice of Claim in a timely manner to receive relief from the charges. The relief of charges applies to both contributory and reimbursable employers.

23.43(13) *Disaster relief.* An employer will not be charged with benefits for unemployment that is directly caused by a disaster declared by the president of the United States, pursuant to the United States Disaster Relief Act of 1974, if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of regular benefits. The employer may protest the charges on the Notice of Claim or the Quarterly Charge Statement within 30 days after the date of mailing of the Quarterly Charge Statement.

This rule is intended to implement Iowa Code sections 96.3(7), 96.5(1), 96.6(2), 96.7, 96.8(5), 96.9(5), 96.11(1), 96.16(4) and 96.29.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.44(96) Benefits payments.

23.44(1) The employer may not be relieved of benefit charges for a payment of back pay until the amount of the overpayment is recovered by the department.

23.44(2) If the department determines that an overpayment has been made:

a. The charge for the overpayment against the employer's account shall be removed,

b. The account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund, and this credit shall include both contributory and reimbursable employers, and

c. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits unless the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, in which case the employer's account shall not be charged for the overpayment.

This rule is intended to implement Iowa Code sections 96.7(3), 96.11(1) and 96.20(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.45 and **23.46** Reserved.

871—23.47(96) Termination of accounts because of no wage reports.

23.47(1) If an employer discontinues business or continues business without employment, the employer may request that the employer's account be placed in an inactive status. Upon verification of inactive status, the department shall notify the employer and the employer is not required to file quarterly reports.

23.47(2) If the department finds that an employer has discontinued business or is no longer paying wages, the department may on its own motion place the account in an inactive status.

23.47(3) If an employer has not reported wages for eight consecutive quarters, the account will be placed in inactive status.

23.47(4) An employer must notify the department if the employer resumes paying Iowa wages.

23.47(5) Inactive accounts will be reactivated, with an experience rate (if eligible), when the date first wages paid after employment resumed is less than or equal to ten consecutive calendar quarter from the quarter in which wages were last paid or when the tenth quarter falls within the same year as the date first wages paid after employment resumed. An employer shall provide all quarterly wage reports, including no wage reports.

This rule is intended to implement Iowa Code sections 96.7(2)*"c"* and *"d"* and 96.8(4)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.48(96) Previously liable employers. A new unemployment tax account and new employer rating will be given to reimbursable employers electing to become contributory and to formerly active contributory employers whose unemployment tax accounts have changed from inactive to active status.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.49 and **23.50** Reserved.

871—23.51(96) Reimbursable employer contributions. A nonprofit organization that has been approved to make payments in lieu of contributions (e.g., a reimbursable employer) will be billed each quarter for benefits paid during such quarter.

23.51(1) Charges billed to the employer's unemployment account are equal to the regular benefits and one-half of the extended benefits paid. Charges are paid to the unemployment fund.

23.51(2) Government and Indian tribal reimbursable employers will be charged an amount equal to all the extended benefits paid.

This rule is intended to implement Iowa Code section 96.8(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.52(96) Employer liability appeal.

23.52(1) An employer liability determination including employer status and liability, assessments, rate of contributions, successorships, worker's status, and all questions regarding coverage of a worker or group of workers may be appealed to the department of workforce development for a hearing before an administrative law judge with the department of inspections, appeals, and licensing.

23.52(2) The appeal must be in writing, stating:

a. The name, address and Iowa employer account number of the employer.

b. The name and official position of the person filing the appeal.

c. The decision that is being appealed.

d. The grounds upon which the appeal is based.

23.52(3) The appeal shall be addressed or delivered to: Department of Workforce Development, Tax Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319. Appeals that are received by the tax bureau after 11:59 p.m. central time will be deemed filed as of the next regular business day.

23.52(4) Unless otherwise required, all determinations by the tax bureau will be sent by regular mail or email, depending on how the employer elected to receive correspondence. The determination will be dated, and the employer or other interested party shall have 30 days from the mailing date printed on the notice to appeal the determination. The employer has 15 days to appeal a Notice of Reimbursable Benefit Charges.

23.52(5) If the department concludes, upon reviewing an appeal, that the original determination is correct, the tax bureau may write to the employer and further explain the decision. If the employer still desires a hearing before an administrative law judge, the employer should notify the department within 30 days of the date of the letter from the department.

23.52(6) Upon receipt of a request for hearing, the tax bureau will ask the department of inspections, appeals, and licensing to schedule a hearing for the employer. A copy of the request will be mailed to the employer. A copy of the file containing all relevant information regarding the issue of the appeal shall be forwarded to the administrative law judge. Documents that may be sent to the administrative law judge include a copy of the disputed decision, the employer's original letter of appeal, all relevant correspondence from the department, and the employer's letter requesting a hearing. All employer liability appeals shall be heard by an administrative law judge and shall be scheduled for hearing at the earliest possible date. Procedures for employer liability hearings are set out in rule 871—26.5(17A,96).

23.52(7) In those cases in which the department finds that a genuine controversy exists or has existed regarding an employing unit's liability for contributions on all or a part of its employees or a rate appeal or other employer liability question and the case has been resolved against such employing unit, no interest or penalty will accrue from the date of such controversy between the department and the employing unit until 30 days after the decision becomes final.

This rule is intended to implement Iowa Code section 96.6(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25; **ARC 0119D**, IAB 3/4/26, effective 4/8/26]

871—23.53(96) Rate appeal and eligibility decision reversal. An employer who appeals a rate notice or corrected rate notice within 30 days may have its rate recomputed based upon the reversal of a benefit eligibility decision under the following circumstances:

23.53(1) An employer may appeal on the grounds that benefit charges against the employer's account have been reversed by a decision issued after the rate computation date. The department will investigate and, if warranted, remove benefit charges that were reversed by a later decision and issue a corrected rate notice.

23.53(2) The employer may appeal on the grounds that benefits charged against the employer's account may be reversed by a decision to be issued on a pending claim or charge-back appeal. The employer's rate will not be recomputed, but it will not become final and the appeal may be reopened by the employer, provided the employer submits a written request to reopen the appeal within 30 days of the next rate notice following the decision. If warranted, the charges will be removed from the computation of the original rate and a corrected rate notice will be issued. The employer must pay any contributions that become due at the disputed rate prior to the receipt of the decision reversing the benefit charges, but a refund of any overpayment of contributions and interest paid by the employer as a result of the recomputation of the rate will be issued, subject to the three-year statute of limitations set out in Iowa Code section 96.14(5).

23.53(3) An employer's payment of contributions at the disputed rate in the circumstances described in subrule 23.53(2) does not indicate the employer's acceptance of the disputed rate.

23.53(4) An employer must file a separate appeal of each rate notice received that contains the disputed benefit charges. If the employer does not file a timely appeal of each affected rate notice, any appeal filed following receipt of a decision reversing the allowance of benefits will be considered as applying only to rate notices that were timely appealed and to the next rate notice.

23.53(5) If the employer appeals on the grounds that the benefits charged against the employer's account were paid to an employee who was still working for the employer in the same employment as in the base period of the claim, the department will remove the charges and will issue a corrected rate notice if it finds the facts warrant such reversal. The employer's appeal must have been made within 30 days of the date on the first rate notice received that included any of the disputed charges, and the issue of charging of benefits will not have been previously adjudicated in either an appeal of the original claim notice or an appeal of a quarterly benefit charge statement.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.54(96) Payment of disputed assessments.

23.54(1) Payment of a disputed assessment is held to be an acceptance of the assessment only when a timely appeal is not filed.

23.54(2) An employing unit that has appealed a determination of liability, or a payment of contributions due, shall submit full payment of any disputed assessment or amounts estimated to be due and file quarterly contribution and payroll for all quarters for which the employer is held liable regardless of any appeal.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.55(96) Burden of proof.

23.55(1) The employer bears the burden of proof in all employer liability cases.

23.55(2) The burden of proof shall rest with an employing unit that employs any individual during any calendar year but that considers itself not an employer subject to the Act, to establish that it is not an employer subject to the Act by presenting proper records, including a record of the identity of the employees, number of individuals employed during each week, and the particular days of each week on which services have been performed, and the amount of wages paid to each employee.

23.55(3) The burden of proof in successorship and partial successorship cases for determinations, appeals, and licensing shall rest with the employer that is appealing the determination of the department.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.56(96) Informal settlement.

23.56(1) Pursuant to Iowa Code chapter 17A, a controversy may, unless precluded by statute, at the discretion of the department be informally settled by mutual agreement of the department and the person or employer who is or is about to be engaged in the controversy. The settlement is effected by a written statement reciting the subject of the controversy and the proposed solution mutually agreed upon including a statement of the action to be taken, or to be refrained from, by each of the parties. The informal settlement constitutes a waiver, by all parties, of the formalities to which they are entitled under the terms of Iowa Code chapter 17A, with respect to the specific fact situation comprising the controversy.

Either party may initiate a proposal for informal settlement of the controversy by communicating a proposal to the other party before the contested hearing is convened.

23.56(2) If the parties agree to a settlement, the written statement is presented to the administrator of the division of unemployment insurance services for review and approval.

23.56(3) In the event a settlement is reached in a case that has been appealed to the courts, the formal settlement will be presented to the appropriate district court. If an assessment of contributions or a decision upon which an assessment is based has become final without appeal, the actual established contribution may be compromised by agreement of the parties and submission to the district court pursuant to Iowa Code section 96.14(5). Doubtful collectibility as contained in Iowa Code section 96.14(5) includes tax debts that are doubtful as to validity or as to collectibility. The department is not required to enter into any informal settlement or compromise with regard to any employer liability determination and may do so at its own discretion.

This rule is intended to implement Iowa Code sections 96.6(3) and 96.14(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.57(96) Interest and penalty on contributions paid with adjustments submitted by employer.

23.57(1) If an employer, on its own motion, submits an adjustment for an error made on previously submitted wage detail and pays any additional contributions due on the adjustment when submitting the adjustment, no interest on the additional contributions will be charged if it is shown to the satisfaction of the department that the error and subsequent late payment were not the result of negligence, fraud, or intentional disregard of the law or rules of the department.

23.57(2) If an employer submits an adjustment without payment, and payment is due, the employer will be assessed for the additional contributions plus interest as provided by law.

This rule is intended to implement Iowa Code section 96.14.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.58 Reserved.

871—23.59(96) Determination and assessment of estimated contributions and errors in reporting.

23.59(1) If the department finds from the examination of the employer's account that contributions have been underpaid because of a department error in assigning the contribution rate, the additional contributions shall be paid within 30 days after the department notifies the employer. No interest or penalty will accrue until 30 days after the notification.

23.59(2) Assessment—failure to file quarterly contribution and payroll.

a. If any employing unit fails to file quarterly contribution and payroll reports as required, the department may file estimated wage reports based on the available information. The employer is responsible for all tax, interest and penalties on estimated wage reports.

b. Whenever the department determines that the collection of contributions from an employer is in jeopardy and the employer has not timely filed the necessary quarterly wage reports, the department shall prepare estimated reports.

c. Estimates made by authorized personnel shall be referred to the collection unit.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.60(96) Accrual of interest and penalties.

23.60(1) An employer who fails to file timely and accurate quarterly wage reports shall pay to the department a penalty in accordance with Iowa Code section 96.14(2).

23.60(2) The amount of the penalty for a delinquent or insufficient quarterly contribution and payroll is based on the total wages paid by the employer in the period for which the report was due. The penalty may not be less than $35 for the delinquency or the insufficient wage detail not made sufficient within 30 days of a request to do so. Insufficient wage detail is defined as a quarterly submission that does not have all social security numbers, all corresponding names, total wages for each employee, or a reporting unit number. Wage detail submitted without a correct account number, federal employer identification number, labor market information, or wage detail submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.

23.60(3) Interest and penalty will not accrue with respect to contributions required from an employer based upon wages for employment in those cases in which the employer's liability is based solely upon the provisions of Iowa Code section 96.1A(14)*"g"* until 30 days after determination of such liability under FUTA.

23.60(4) Interest and penalty may not accrue in those cases where the department finds that, as a matter of equity and good conscience, the employer should not be required to pay interest.

23.60(5) Interest as provided under Iowa Code section 96.14 accrues 30 days after the quarterly billing to reimbursable employers.

23.60(6) The penalties applicable to contributory employers are applicable to employers who have been approved to make payments in lieu of contributions.

23.60(7) Payment checks not honored by bank. An employer is liable for interest for a check in payment of contributions that is not honored by the bank upon which it is drawn.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.61(96) Collection of interest and penalties. When quarterly wage reports are filed with contributions paid, but without payment of penalties and interest due, penalties and interest may be assessed and a lien filed in the same manner as for unpaid contributions.

This rule is intended to implement Iowa Code section 96.16(4).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.62(96) Rescission of interest and penalty.

23.62(1) Interest and penalty charges may be rescinded whenever an employer can provide documentary evidence to the satisfaction of the department that an inquiry in writing was directed to the department within 15 days following the end of the quarter for the contribution or payroll, untimely filed or paid, and such contributions are paid in full.

23.62(2) Penalty charges only may be rescinded whenever the employer can show documentary evidence that the wages paid to employees used to determine liability to the department were reported to another state in good faith and the contributions thereon were properly paid to the state to which

the wages were reported and that said employees were fully insured during the period of unreported liability to this department.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.63(96) Cancellation of interest and penalty. The department may, at its discretion and for good cause, cancel interest and penalty upon written request from the employer or its agent. Requests should be directed to the department at its administrative office. The employer will be advised if the request is denied.

In determining whether good cause has been shown, the department shall consider all relevant factors including but not limited to whether the party acted in the manner that a reasonably prudent individual would have acted under the same or similar circumstances, whether the party received timely notice of the need to act, whether there was administrative error by the department, whether there were factors outside the control of the party that prevented a timely action, the efforts made by the party to seek an extension of time by promptly notifying the department, the party's physical inability to take timely action, the length of time the action was untimely, and whether any other interested party has been prejudiced by the untimely action.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.64(96) Refund of interest and penalty.

23.64(1) Interest or penalty may be refunded only when it has been erroneously paid or overpaid. Interest or penalty erroneously collected in excess of the amount due may be credited or refunded to the employing unit or other person(s) who paid such interest or penalty subject to the following limitations.

23.64(2) If the department determines that a claim for refund or credit is allowable in accordance with the Iowa Code and these rules, it shall make necessary adjustments as follows:

a. The amount of the overpayment is first applied against any unpaid liability then due from or accrued against the employing unit.

b. The remainder of any such overpayment will be refunded to the employing unit or other person(s) by whom it was paid, or its or their successor, administrators or executors.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.65(96) Liens for unpaid contributions, interest, and penalties.

23.65(1) Filing of liens and notice of jeopardy assessments.

a. If wages are filed by an employer for the purpose of determining the amount of contribution due, or an assessment of contribution due, and the employer fails to pay any part of the contributions, interest and penalties due, a Notice of Assessment and Lien will be issued to the employer.

b. If, 30 days after a Notice of Assessment and Lien or a Notice of Jeopardy Assessment, has been issued (subrule 23.59(2)) and the employer has failed to make payment in full of the amounts that were assessed, the department may file a lien with the county recorder of the county in which the employer has its principal place of business or with the county recorder of any county in which the employer has real or personal property.

c. The lien, known as a Notice of Lien, shall state the date of assessment; the employer's name, address and account number; and the amount due. The recorder shall record the Notice of Lien as provided in Iowa Code section 96.14(3).

23.65(2) When the Notice of Lien is duly filed and recorded, the amount stated shall be a lien upon the entire interest of the employer, legal or equitable, in any real property, and upon any personal property, tangible or intangible, located in any county where the Notice of Lien or copy is filed.

23.65(3) As provided in Iowa Code section 96.14(3), the lien shall attach as of the date the assessment is issued to the employer.

23.65(4) The transfer, through sale, exchange, or other method, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the department, and the person acquiring such assets shall be held liable for payment of all delinquent contributions, interest, and penalties due from the delinquent employer. The department shall be made a party to any foreclosure action involving any real or personal property against which the department has or may claim a lien.

23.65(5) Liens against out-of-state employers and resident employers who remove themselves from the state of Iowa may be obtained in accordance with Iowa Code section 96.14(6).

23.65(6) The department may, at its discretion and in accordance with Iowa Code section 96.14(3), make an assessment and file a lien in the recorder's office in the county or state where the employer resides. Liens shall be recorded in accordance with the law governing liens in the state where filed, and the costs shall be borne by the employer.

23.65(7) No employment security lien(s) shall be released without payment of the contributions secured except as follows:

a. It is shown to the department's satisfaction that the lien(s) was filed in error. If this is shown, the lien shall be at the expense of the department.

b. Release of the lien(s) is ordered by a judge having jurisdiction over same.

c. A release is necessary to facilitate payment to the department from proceeds of sale in an equity action.

d. A foreclosure action has been initiated by a secured creditor and it is demonstrated to the department's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

23.65(8) In such cases, the department may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

23.65(9) Interest and penalty secured by a lien may be compromised by the department at its discretion.

23.65(10) Upon payment of contributions, interest, penalty, and costs, the department shall execute a Satisfaction of Lien by filing it with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be provided to the employer.

This rule is intended to implement Iowa Code section 96.14(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.66(96) Jeopardy assessments.

23.66(1) If the department believes the collection of any contribution will be jeopardized by delay, the department may, whether or not the time otherwise prescribed by rule 871—23.8(96) for filing and paying any contribution has expired, immediately assess the contributions, together with all interest and penalty. The contributions, penalty and interest shall become immediately due and payable. The jeopardy assessment may be made by personal service upon the employer or the employer's agent by a representative of the department or civil officer of the state. Should immediate personal service not be possible, the jeopardy assessment shall be sent by mail to the employer's address of record and such mailing shall be a satisfactory service.

23.66(2) If, after a jeopardy assessment has been served, the amount assessed remains unpaid and no appeal has been filed by the employer, a notice of lien shall be recorded in the recorder's office for the county or counties in which the employer resides or owns property. A copy of the lien shall be mailed to the employer at the address of record.

23.66(3) If, at the time of service of a jeopardy assessment, the employer protests or disputes the correctness of the assessment, the employer may furnish to the department and the department may accept a bond in an amount the department deems necessary but not to exceed double the amount of contributions due, provided the department is satisfied as to the security of the bond. So long as the

bond remains in force and the assessment remains in dispute, the department shall not issue a distress warrant. If, after final adjudication of the jeopardy assessment, the employer fails to pay the assessed amount in full, the bond shall be forfeited to the extent necessary to satisfy the jeopardy assessment plus any accrued interest. Any overage shall be refunded to the employer by warrant or credit. If the bond is insufficient to pay the jeopardy assessment in full, the department may issue a distress warrant as provided in rule 871—23.67(96).

23.66(4) After a lien has been filed and the amount or any portion of the amount assessed and any additional accrued interest remains unpaid, the department may at any time issue a distress warrant instructing a sheriff or peace officer to levy upon and seize or attach any real or personal property of the employer in satisfaction of the amount assessed and secured by the lien.

This rule is intended to implement Iowa Code section 96.7(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.67(96) Distress warrants.

23.67(1) In addition to and as an alternative to any other remedy provided by the Iowa Code and these rules, the department may proceed to enforce its lien by issuing to the sheriff of any county or to any civil officer of the state of Iowa having proper jurisdiction a distress warrant commanding the sheriff or civil officer to levy upon and sell any real or personal property that may be found within its jurisdiction belonging to an employer who has defaulted in the payment of any sum determined by the department to be due from the employer and to pay the proceeds of the sale over to the clerk of district court in and for the county in which the property is found. All costs of the execution shall be charged to the employer.

23.67(2) The sale shall be held after the property has been levied upon, the period of redemption has expired, and the department has petitioned for and been granted a condemnation order in the district court in and for the county in which the property was levied upon, in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

23.67(3) No property belonging to the employer is exempt from execution.

23.67(4) Whenever a warrant is returned not satisfied in full, the department may proceed to issue a new warrant in the amount remaining unsatisfied, together with any additional interest, penalties, and costs, as provided above.

This rule is intended to implement Iowa Code section 96.7(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.68(96) Collection of covered unemployment compensation. Pursuant to 26 U.S.C. 6402(f), the department shall utilize the Treasury Offset Program to collect covered unemployment compensation.

This rule is intended to implement Iowa Code section 96.14.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.69(96) Injunction for nonpayment or failure to provide required information.

23.69(1) In addition or as an alternative to any other remedy provided in Iowa Code chapter 96 and this rule, the department may proceed to enjoin an employer who has refused or failed to pay any contributions, interest, or penalty or who has failed to file or provide any information required by the department.

23.69(2) The department retains discretion as to whether or not to seek an injunction.

23.69(3) When the department determines that an injunction should be obtained, the department will send by certified mail or by personal service to the employer at the last-known address for the employer a notice containing the following information:

a. That the department plans to seek an injunction against the employer.

b. The period(s) for which there are delinquent contributions, interest, and penalty due or for which required information has not been provided.

c. The amount of indebtedness.

d. That the injunction will enjoin the employer from operating any businesses in the state of Iowa until one of the following conditions is met:

(1) The entire indebtedness is paid.

(2) The employer files a full and sufficient bond.

(3) The employer has entered into a court-approved plan providing for payment of the indebtedness.

(4) Requested information has been provided.

e. The employer has ten days in which to respond to the department.

23.69(4) Upon expiration of the ten days following the notice, if the employer has not responded satisfactorily, the department may file with the district court for the county in which the employer resides a petition requesting a hearing and an order granting the injunction.

23.69(5) Upon the issuance of a court order granting the injunction, the department will proceed to periodically check to ensure that the employer is complying with the injunction order. Should the department find that the employer is not in compliance, it will ask the court for a finding of contempt and ask the court to impose appropriate punishment.

23.69(6) Upon payment in full of the delinquent contributions, interest, and penalty and the filing of all delinquent wage detail, the department shall have the injunction dissolved.

23.69(7) If the employer, as the result of a court-approved payment plan, is relieved by the court of the injunction and the employer fails to perform strictly as set out in the plan, the department may, at its discretion, ask the court to reinstate the injunction upon notice and hearing.

23.69(8) Any costs of these actions shall be borne by the employer.

This rule is intended to implement Iowa Code section 96.14(16).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.70(96) Nonprofit organizations.

23.70(1) Any nonprofit organization can be considered eligible to reimburse the Iowa unemployment compensation fund in lieu of paying contributions. Any nonprofit organization wishing to be considered as a reimbursable employer shall file as provided under Iowa Code section 96.7 the election to reimburse the fund with the department for its consideration.

23.70(2) The election to reimburse must be signed by an authorized official of the nonprofit organization and be accompanied by:

a. A letter of intent indicating the organization's desire to be considered for reimbursable status.

b. A copy of the organization's letter of 501(c)(3) exemption from the Internal Revenue Service. If the organization does not have a 501(c)(3) letter at the time of the filing of its election to become a reimbursable employer, it may file a written request with the department for an extension of time setting forth the reason for the request, and the department may grant an extension not to exceed 180 days. Included with this extension request should be a copy of the application for exemption, Election to Make Payments in Lieu of Contributions, or evidence that the request for 501(c)(3) exemption has been made.

c. A corporate charter or other foundational documents.

23.70(3) All requests by nonprofit organizations wishing to be considered for reimbursable status shall be filed on Form 68-0463 and that form, along with the organization's 501(c)(3) Internal Revenue Service letter of exemption, except as otherwise provided in subrule 23.70(2), shall be directed to the attention of the tax bureau. The request for reimbursable status will be examined by an authorized representative.

23.70(4) An organization not possessing a 501(c)(3) nonprofit tax exemption at the time its election is submitted shall be granted reimbursable status provided that the exemption is obtained and a copy is filed with the department within 180 days of the date the election is submitted. Should the organization fail to obtain an exemption within 180 days, the election shall be invalid and the organization required to pay contributions upon all taxable wages paid during the period covered by the invalid election at the contribution rate it would have had if the invalid election had not been

made. A new election may not be made by the organization until it has obtained a 501(c)(3) nonprofit tax exemption and has filed a new election. The new election shall not be retroactive to cover the period of the invalid election. Benefits reimbursed during the invalid election shall be used to offset the contributions due, and any excess shall be refunded to the organization.

23.70(5) Any nonprofit organization that terminates its election to reimburse the fund shall continue to be liable to reimburse the fund for benefits that are paid based on wages earned during the effective period of the employer's Election to Make Payments in Lieu of Contributions. All benefits charges based on wages paid after the date of the approval of the change of status to a contributory employer shall be charged to the employer's contributory account.

a. A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will be given a new employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph 23.70(4)*"b."*

b. The experience, while under each tax status, will not be combined for rate computation purposes unless the department finds, or has reason to believe, that the nonprofit organization changing from a reimbursable status to a contributory status is unable to reimburse the fund for benefits outstanding at the time of the change in status, plus any benefits paid after the change in status that are based on wages paid while the nonprofit organization was still in a reimbursable status. The department may then, at its own option, use the unreimbursed benefits in the computation of the nonprofit organization's contribution rate and transfer any contributions collected, above what the nonprofit organization would have paid as a newly covered employer, from the nonprofit organization's contributory account to the reimbursable account to apply against the unreimbursed benefits.

23.70(6) Any nonprofit organization that elects to change its status from contributory to reimbursable shall continue to be liable for charges on all benefits based on wages paid when the nonprofit organization was a contributory employer. These charges will be charged to the nonprofit organization's contributory account. The experience of the contributory account will not be merged with the nonprofit organization's reimbursable account.

23.70(7) In the event that a reimbursable nonprofit organization succeeds to a contributory employer, such successor employer shall not receive a transfer of account balance from the predecessor account. The account balance shall remain with the predecessor account and be used as an offset against any claims attributable to that account. If an employer, whether or not the employer may elect to be reimbursable, becomes a successor to a reimbursable nonprofit organization, the successor employer shall become obligated for the reimbursable nonprofit organization's unpaid benefit charges in the event that the reimbursable nonprofit organization cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the reimbursable nonprofit organization prior to the date of the sale or transfer.

23.70(8) In the event a reimbursable nonprofit organization discontinues business, the reimbursable nonprofit organization will continue to be liable to reimburse the fund in an amount equivalent to the amount of regular unemployment benefits and one-half of the extended benefits paid to an individual that is attributable to wages paid by the reimbursable nonprofit organization prior to the discontinuance of business.

This rule is intended to implement Iowa Code section 96.7(9).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.71(96) Governmental entity—definition.

23.71(1) The definition of a governmental entity is held to include but not be limited to:

a. An organization or any division, department, agency, commission, or board of a state or political subdivision established by proper authorities, authorized and created under constitutional

provisions or statutes, for the purpose of carrying out a portion of the function of government, including both governmental and proprietary functions.

b. An instrumentality is one that is organized to carry on some function or purpose of government for a state or a political subdivision. There is expressed or implied statutory or other authority creating it. It is an independent legal entity with power to hire, supervise, and discharge its own employees. Generally, it can sue or be sued in its own name, to hold, convey real and personal property and borrow money.

c. Political subdivisions include counties, cities, municipalities, towns, villages, and townships, as well as irrigation, flood control, sanitation, utility, reclamation, drainage, improvement, and public school districts and authorities or any combination of these and similar governmental entities within the state of Iowa.

d. Instrumentalities shall include departments, boards, agencies, commissions, county or municipal corporations, associations and organizations of a state or a political subdivision of the state when the instrumentality is operated by virtue of the authority, power, or powers conferred upon the instrumentality by a state or political subdivision of the state, or when the instrumentality is controlled, supervised or receives direction, expressed or implied, from a state or political subdivision of a state or such rights are vested in public authority or authorities, or the state or the political subdivision of a state has the right, expressed or implied, to control or direct the policy, operation or to influence the organizations or action of individuals, parties or interests that control those who manage or administer the affairs of such organizations.

23.71(2) In cases involving the status of an organization as to whether it is a state, a state instrumentality, a political subdivision of a state or a political subdivision instrumentality, the following factors may be taken into account:

a. Whether the revenues are subject to control by a state, a political subdivision of a state or an instrumentality of either.

b. Whether the organization has broad powers of taxation, appropriation or authority to levy special assessments on the land located in the district that will stand as a lien upon the property assessed.

c. Whether the organization has been created or is existing by virtue of a state, a political subdivision of the state or instrumentality of either, which operates in the public interest, without profit to private persons, and whose purpose is presumed to be a public benefit and conducive to the public health, convenience and welfare.

d. Whether the organization is organized or used for a governmental purpose or an aid in the function of government or it performs a governmental function.

e. Whether there is an expressed or implied statutory or other authority necessary or existing for the creation or use of the organization.

23.71(3) The term "employment" does not apply to services performed for this state, a political subdivision of this state, an Indian tribe or an instrumentality of either by an individual who is an elected official; a member of a legislative body; a member of the judiciary of a state or political subdivision; a member of the state national guard, air national guard, or armed forces reserve; an employee on a temporary-duty basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or in a position designated as a major nontenured policymaking or advisory position pursuant to state law if the position does not ordinarily require duties of more than eight hours per week.

a. The exclusion for a governmental entity or Indian tribe from coverage of unemployment of the services of an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency applies only to those individuals who are hired or pressed into service to assist directly with an emergency or urgent distress associated with an emergency, including such temporary tasks as firefighting, rescue, removal of storm debris, cleaning up mud and flood debris, restoration of public facilities, snow removal and road clearance. Volunteer firefighters and police officers, and snow removal personnel, who are called to duty in emergency situations such as fires,

floods, emergency snow removal or similar public emergency to perform services on a temporary basis for which they receive pay, are excluded from coverage. The exclusion does not apply to permanent employees whose usual responsibilities include emergency situations.

b. The provision that excludes an individual employed by a governmental entity or Indian tribe who exercises duties in a position defined in state law as a major nontenured policymaking or advisory position, or a policymaking or advisory position that ordinarily does not require duties of more than eight hours per week, covers those individuals holding positions designated by, or pursuant to, state law as a policymaking or advisory position. Political subdivisions that have authority to enact ordinances or resolutions without recourse to the state legislature but under authority of state law may also establish and define such positions. The positions may qualify for the exclusion if the political subdivision has enacted an ordinance or resolution creating or designating one of its positions as policymaking or advisory, provided power to make the ordinance or resolution is authorized or permitted by the laws of the state. If the state law or local ordinance or resolution properly designated the positions as policymaking or advisory, the exclusion is clearly applicable. Where the law or the ordinance does not clearly and specifically so categorize or label the position, other pertinent factors such as job descriptions, the qualification of individuals considered for and appointed to the position, and the responsibilities involved shall be taken into account in determining the character of the position for purposes of applying the exclusion.

(1) "Policymaker" is defined as generally referring to the determination of the direction, emphasis and scope of action in the development of, and the administration of, governmental programs. Such responsibilities are confined to and inherent in jobs of the higher echelons of government.

(2) An "advisory position" is one that advises established governmental agencies and officers with respect to policy, program and administration without having authority to implement the recommendations.

(3) The word "major" in the phrase "major nontenured policymaking or advisory position" refers to high level governmental positions usually filled by appointment by the chief executive of the political entity (governor, mayor, etc.), or a council, and that involves responsibilities affecting the entire political entity, whether it be the state, county or city.

(4) The term "nontenured" is used in its usual meaning to mean that the position is not covered by merit system or civil service law or rules with respect to duration of appointment to the service.

(5) Service in a policymaking or advisory position where the performance of the duties ordinarily does not require more than eight hours per week is exempted. It makes no difference whether the position is tenured. If the position ordinarily requires more than eight hours per week, the exclusion does not apply. The number of hours required should be determined by reference to the law establishing the position and the actual time spent by incumbents.

c. An elected official includes an individual appointed to serve the unexpired term of an elected position. Such an individual's services for such period are excluded because the individual is performing excluded services.

d. An official elected by a body other than the public, such as by a vote by the legislature, board of supervisors, council, school board or trustees, to perform services for a government entity, such individual is not excluded from coverage.

e. Services performed for the state national guard or the air national guard are excluded from coverage of the employment security law only as to the services in the individual's "military" capacity. It does not apply to any service performed in any other capacity.

f. If a member of the state national guard or air national guard is employed in a civilian capacity performing services for either organization as distinguished from "military" service, the civilian service would be covered as an employee of a governmental entity to the same extent as any other employee.

23.71(4) Exemption from "employment" for individuals performing services for a governmental entity or Indian tribe as part of an unemployment work relief or work training program. Services

performed by an individual for a government entity or Indian tribe for the purpose of qualifying or repaying a welfare or relief grant will not be considered "employment" provided that:

a. The major purpose of the program under which the work is performed is to relieve individuals from their unemployment or poverty.

b. The government entity does not pay the welfare or relief grant directly to the individual but instead pays items such as rent, power bills, medical bills, etc., for the individual.

c. The services performed by the individuals do not displace regularly employed workers of the government entity.

This rule is intended to implement Iowa Code sections 96.7(8) and 96.1A(16)*"a"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.72(96) Governmental entity—elective coverage and liability.

23.72(1) Any governmental entity may elect to be a governmental contributory employer by filing for elective coverage as a governmental contributory employer. The rules governing the selection of coverage status for governmental entities apply to Indian tribes. Any governmental entity failing to file such an election will be considered as a governmental reimbursable employer. The application must be signed by a duly constituted governmental official. The election shall be approved if the department finds that:

a. It is an application for all employees of the entity.

b. The applicant is a "governmental entity."

c. It sets forth the name and address of the entity.

23.72(2) The effective date of an elective coverage agreement filed by a government entity is the first day of the calendar year in which the election was filed.

23.72(3) An agreement for elective coverage shall be continued in effect from period to period unless a written application for termination has been filed with the department 30 days before the beginning of the taxable year for which such termination shall first be effective following the initial one-year period of coverage.

23.72(4) An applicant may withdraw an application for elective coverage prior to final approval of the application. The department may, upon written request of the applicant, cancel an elective coverage agreement that has been finally approved if the applicant shows that the application was submitted through justifiable mistake, or error, or was submitted by a person not having proper authorization to bind the applicant.

23.72(5) If a governmental entity is succeeded in whole or in part by another governmental entity, the successor may elect to continue the elective coverage agreement of the predecessor or may elect to terminate the elective coverage agreement of the predecessor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity under an approved elective coverage agreement, the elective coverage agreement of the predecessor shall be continued to the same extent as the elective coverage agreement of the successor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity not under an approved elective coverage agreement, the successor shall meet the requirements of this rule if it elects to continue the elective coverage agreement of the predecessor.

23.72(6) The contribution rate of a governmental contributory employer shall be determined by the ranking of the governmental contributory employer's percentage of excess when compared to all other governmental contributory employers' percentage of excesses and the rate assigned to each rank as determined by the base rate of all governmental contributory employers. The base rate is determined by adding or subtracting the difference between the benefits charged and the contributions paid by governmental contributory employers since January 1, 1980 (adjusted if necessary by excess contributions from calendar years 1978 and 1979), to or from the total benefits charged to governmental contributory employers during the preceding calendar year and dividing this sum by the total taxable wages reported by governmental contributory employers during the same calendar year.

The contribution rate of a governmental contributory employer shall be payable on the taxable wages paid by the governmental contributory employer.

23.72(7) Liability upon the sale, transfer or discontinuance of a reimbursable governmental employer.

a. If a governmental reimbursable employer sells or otherwise transfers its enterprise, business, or operation to a subsequent employing unit, and the subsequent employing unit is determined to be a successor employer, the successor employer shall become liable to the department for the predecessor governmental reimbursable employer's benefit charges that are unpaid as of the date of the sale or transfer in the event that the predecessor governmental reimbursable employer cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the predecessor governmental reimbursable employer prior to the date of the sale or transfer.

b. If a reimbursable instrumentality of either a state or a political subdivision is discontinued other than by sale or transfer, the state or the political subdivision shall reimburse the department for the reimbursable instrumentality's benefit charges that are unpaid at the time the reimbursable instrumentality was discontinued. In addition, the state or the political subdivision shall be liable to reimburse the department for benefits paid after the discontinuance of the reimbursable instrumentality that are based on wages paid by the reimbursable instrumentality prior to the discontinuance.

This rule is intended to implement Iowa Code section 96.7(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.73(96) Governmental entities—delinquent accounts.

23.73(1) Any governmental entity that is an employer and that becomes delinquent in the payment of contributions or the reimbursement of benefits shall be assessed for the same together with any interest and penalty due thereon.

23.73(2) Contributions are due within 30 days of the end of the quarter for which they are incurred. Reimbursable benefit payments are due 30 days after the date of the statement.

This rule is intended to implement Iowa Code section 96.14(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.74 to **23.81** Reserved.

871—23.82(96) Definition of construction employer.

23.82(1) Construction. The department will utilize the North America Industry Classification System manual (2022 edition) to determine which employers will be classified as construction. The manual is available on the Internet to view or download at www.census.gov/naics.

a. The construction sector is comprised of establishments primarily engaged in the construction of buildings and other structures, heavy construction (except buildings), additions, alterations, reconstruction, installation, maintenance and repairs. Establishments engaged in demolition or wrecking of buildings and other structures, clearing of building sites, and sale of materials from demolished structures are also included. This sector also includes those establishments engaged in blasting, test drilling, landfill, leveling, earthmoving, excavating, land drainage, and other land preparation. The industries within this sector have been defined on the basis of their unique production processes. As with all industries, the production processes are distinguished by their use of specialized human resources and specialized physical capital. Construction activities are generally administered or managed at a relatively fixed place of business, but the actual construction work is performed at one or more different project sites. Employers that provide workers primarily for construction will be classified as construction employers.

b. This sector is divided into three subsectors of construction activities:

(1) Building construction and land subdivision and land development;

(2) Heavy construction (except buildings), such as highways, power plants, and pipelines; and

(3) Construction activity by special trade contractors.

c. Establishments classified in Subsector 233, Building, Developing, and General Contracting, and Subsector 234, Heavy Construction, usually assume responsibility for an entire construction project and may subcontract some or all of the actual construction work. Operative builders who build on their own account for sale and land subdividers and land developers who engage in subdividing real property into lots for sale are included in Subsector 233, Building, Developing, and General Contracting. (Special trade contractors are included in Subsector 234, Heavy Construction, if they are engaged in activities primarily relating to heavy construction, such as grading for highways.) Establishments included in these subsectors operate as general contractors, design-builders, engineer-constructors, joint-venture contractors, and turnkey construction contractors. Establishments identified as construction management firms are also included.

d. Establishments classified in Subsector 235, Special Trade Contractors, are primarily engaged in specialized construction activities, such as plumbing, painting, and electrical work and work for builders and general contractors under subcontract or directly for project owners. Establishments engaged in demolition or wrecking of buildings and other structures, dismantling of machinery, excavating, shoring and underpinning, anchored earth retention activities, foundation drilling, and grading for buildings are also included in this subsector.

e. "Force account" construction is construction work performed by an establishment primarily engaged in some business other than construction, for its own account and use, and by employees of the establishment. This activity is not included in this industry sector unless the construction work performed is the primary activity of a separate establishment of the enterprise.

f. The installation of prefabricated building equipment and materials, such as elevators and revolving doors, is classified in the construction sector. Installation work incidental to sales by employees of a manufacturing or retail establishment is classified as an activity of those establishments.

23.82(2) The term "construction" includes but is not limited to:

a. Land subdividing and land development. Establishments primarily engaged in subdividing real property into lots or developing lots for sale.

b. Residential building construction.

(1) Single-family housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations, and repairs) of single-family residential housing units.

Building alterations, single-family—general contractors
Building construction, single-family—general contractors
Custom builders, single-family houses—general contractors
Designing and erecting, combined: single-family houses—general contractors
Home improvements, single-family—general contractors
House construction, single-family—general contractors
House: shell erection, single-family—general contractors
Mobile home repair, on site—general contractors
Modular housing, single-family (assembled on site)—general contractors
One-family house construction—general contractors
Prefabricated single-family houses erection—general contractors
Premanufactured housing, single-family (assembled on site)—general contractors
Remodeling buildings, single-family—general contractors
Renovating buildings, single-family—general contractors
Repairing buildings, single-family—general contractors
Residential construction, single-family—general contractors
Row house (single-family) construction—general contractors
Town house construction—general contractors

(2) Multifamily housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of multifamily residential housing units.

Apartment building construction—general contractors
Building alterations, residential: except single-family—general contractors
Building construction, residential: except single-family—general contractors
Custom builders, residential: except single-family—general contractors
Designing and erecting, combined: residential, except single-family—general contractors
Dormitory construction—general contractors
Home improvements, residential: except single-family—general contractors
Prefabricated building erection, residential: except single-family—general contractors
Remodeling buildings, residential: except single-family—general contractors
Renovating buildings, residential: except single-family—general contractors
Repairing buildings, residential: except single-family—general contractors
Residential construction, except single-family—general contractors

c. Nonresidential building construction.

(1) Manufacturing and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of manufacturing and industrial buildings.

Building alterations, industrial and warehouse—general contractors
Building components manufacturing plant construction—general contractors
Building construction, industrial and warehouse—general contractors
Clean room construction—general contractors
Cold storage plant construction—general contractors
Commercial warehouse construction—general contractors
Custom builders, industrial and warehouse—general contractors
Designing and erecting, combined: industrial—general contractors
Dry cleaning plant construction—general contractors
Factory construction—general contractors
Food products manufacturing or packing plant construction—general contractors
Grain elevator construction—general contractors
Industrial building construction—general contractors
Industrial plant construction—general contractors
Paper pulp mill construction—general contractors
Pharmaceutical manufacturing plant construction—general contractors
Prefabricated building erection, industrial—general contractors
Remodeling buildings, industrial and warehouse—general contractors
Renovating buildings, industrial and warehouse—general contractors
Repairing buildings, industrial and warehouse—general contractors
Truck and automobile assembly plant construction—general contractors
Warehouse construction—general contractors

(2) Commercial and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of commercial and industrial buildings.

Administration building construction—general contractors
Amusement building construction—general contractors
Auditorium construction—general contractors
Bank building construction—general contractors
Building alterations, nonresidential: except industrial and warehouses—general contractors
Building construction, nonresidential: except industrial and warehouses—general contractors
Casino construction—general contractors

Church, synagogue and related building construction—general contractors
Civic center construction—general contractors
Commercial building construction—general contractors
Custom builders, nonresidential: except industrial and warehouses—general contractors
Designing and erecting, combined: commercial—general contractors
Dome construction—general contractors
Farm building construction, except residential—general contractors
Fire station construction—general contractors
Garage construction—general contractors
Hospital construction—general contractors
Hotel construction—general contractors
Institutional building construction, nonresidential—general contractors
Mausoleum construction—general contractors
Motel construction—general contractors
Municipal building construction—general contractors
Museum construction—general contractors
Office building construction—general contractors
Passenger and freight terminal building construction—general contractors
Post office construction—general contractors
Prefabricated building erection, nonresidential: except industrial and warehouses—general contractors
Prison construction—general contractors
Remodeling buildings, nonresidential: except industrial and warehouses—general contractors
Renovating buildings, nonresidential: except industrial and warehouses—general contractors
Repairing buildings, nonresidential: except industrial and warehouses—general contractors
Restaurant construction—general contractors
School building construction—general contractors
Service station construction—general contractors
Shopping center construction—general contractors
Silo construction, agricultural—general contractors
Stadium construction—general contractors
Store construction—general contractors

d. Highway, street, bridge and tunnel construction.

(1) Highway and street construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of highways (except elevated), streets, roads, or airport runways, and establishments identified as highway and street construction management firms, and establishments identified as special trade contractors engaged in performing subcontract work primarily related to highway and street construction.

Airport runway construction—general contractors
Alley construction—general contractors
Asphalt paving; roads, public sidewalks and streets—contractors
Concrete construction; roads, highways, public sidewalks, and streets—contractors
Grading for highways, streets and airport runways—contractors
Guardrail construction on highways—contractors
Highway construction, except elevated—general contractors
Highway signs, installation of—contractors
Parkway construction—general contractors
Paving construction—contractors
Resurfacing streets and highways—contractors
Road construction, except elevated—general contractors
Sidewalk construction, public—contractors

Street maintenance or repair—contractors

Street paving—contractors

(2) Bridge and tunnel construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of bridges, viaducts, elevated highways and tunnels, and establishments identified as bridge and tunnel construction management firms, and establishments identified as special trade contractors primarily engaged in performing subcontract work related to bridge and tunnel construction.

Abutment construction—general contractors

Bridge construction—general contractors

Causeway construction on structural supports—general contractors

Highway construction, elevated—general contractors

Overpass construction—general contractors

Trestle construction—general contractors

Tunnel construction—general contractors

Underpass construction—general contractors

Viaduct construction—general contractors

e. Other heavy construction.

(1) Water, sewer, and pipeline construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of water mains, sewers, drains, gas mains, natural gas pumping stations, and gas and oil pipelines, and establishments identified as water, sewer and pipeline construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to water, sewer, and pipeline construction.

Aqueduct construction—general contractors

Conduit construction—contractors

Distribution lines (oil and gas field) construction—general contractors

Gas main construction—general contractors

Manhole construction—contractors

Natural gas compressing station construction—general contractors

Pipe laying—general contractors

Pipeline construction—general contractors

Pipeline wrapping—contractors

Pumping station construction—general contractors

Sewage collection and disposal line construction—general contractors

Sewer construction—general contractors

Water main line construction—general contractors

(2) Power and communication transmission line construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of electric power and communication transmission lines and towers, radio and television transmitting/receiving towers, cable laying, and cable television lines, and establishments identified as power and communication transmission line construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to power and communication line construction.

Cable laying construction—contractors

Cable television line construction—contractors

Pole line construction—general contractors

Power line construction—general contractors

Telegraph line construction—general contractors

Telephone line construction—general contractors

Television and radio transmitting tower construction—general contractors

Transmission line construction—general contractors

(3) Industrial nonbuilding structure construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of heavy industrial nonbuilding structures, such as chemical complexes, or facilities, cement plants, petroleum refineries, industrial incinerators, ovens, kilns, power plants (except hydroelectric plants), and nuclear reactor containment structures, and establishments identified as industrial nonbuilding construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to industrial nonbuilding construction.

Chemical complex or facilities construction—general contractors
Coke oven construction—general contractors
Discharging station construction, mine—general contractors
Furnace construction for industrial plants—general contractors
Industrial incinerator construction—general contractors
Industrial plant appurtenance construction—general contractors
Kiln construction—general contractors
Light and power plant construction—general contractors
Loading station construction, mine—general contractors
Mine loading and discharging station construction—general contractors
Mining appurtenance construction—general contractors
Nuclear reactor containment structure construction—general contractors
Oil refinery construction—general contractors
Oven construction, bakers'—general contractors
Oven construction for industrial plants—general contractors
Petrochemical plant construction—general contractors
Petroleum refinery construction—general contractors
Power plant construction—general contractors
Tipple construction—general contractors
Washeries construction, mining—general contractors

(4) All other heavy construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction or repairs) of heavy nonbuilding construction projects (except highway, street, bridge, tunnel, water lines, sewer lines, pipelines, and power and communication transmission lines), and industrial nonbuilding structures, and establishments identified as all other heavy construction management firms, and establishments primarily engaged in construction equipment rental with an operator, and establishments identified as special trade contractors engaged in activities primarily related to all other heavy construction.

Athletic field construction—general contractors
Blasting, except building demolition—contractors
Breakwater construction—general contractors
Bridle path construction—general contractors
Brush clearing or cutting—contractors
Caisson drilling—contractors
Canal construction—general contractors
Channel construction—general contractors
Channel cutoff construction—general contractors
Clearing of land—general contractors
Cofferdam construction—general contractors
Cutting right-of-way—general contractors
Dam construction—general contractors
Dike construction—general contractors
Dock construction—general contractors
Drainage project construction—general contractors
Dredging—general contractors

Earthmoving, not connected with building construction—general contractors
Flood control project construction—general contractors
Golf course construction—general contractors
Harbor construction—general contractors
Heavy equipment rental with an operator—contractors
Hydroelectric plant construction—general contractors
Irrigation projects, construction—general contractors
Jetty construction—general contractors
Land clearing—contractors
Land drainage—contractors
Land leveling (irrigation)—contractors
Land reclamation—contractors
Levee construction—general contractors
Lock and waterway construction—general contractors
Marine construction—general contractors
Missile facilities construction—general contractors
Pier construction—general contractors
Pile driving—general contractors
Pond construction—general contractors
Railroad construction—general contractors
Railway roadbed construction—general contractors
Reclamation projects construction—general contractors
Reservoir construction—general contractors
Revetment construction—general contractors
Rock removal-underwater—contractors
Sewage treatment plant construction—general contractors
Ski tow erection—general contractors
Soil compacting service—contractors
Submarine rock-removal—general contractors
Subway construction—general contractors
Tennis court construction, outdoor—general contractors
Timber removal-underwater—contractors
Trail building—general contractors
Trailer camp construction—general contractors
Trenching—contractors
Waste disposal plant construction—general contractors
Water power project construction—general contractors
Water treatment plant construction—general contractors
Waterway construction—general contractors
Wharf construction—general contractors

f. Plumbing, heating and air-conditioning contractors. Establishments primarily engaged in one or more of the following: (1) installing plumbing, heating, and air-conditioning equipment; (2) servicing plumbing, heating, and air-conditioning equipment; and (3) the combined activity of selling and installing plumbing, heating, and air-conditioning equipment. The plumbing, heating, and air-conditioning work performed includes new work, additions, alterations, and maintenance and repairs.

Air system balancing and testing—contractors
Air-conditioning, with or without sheet metal work—contractors
Boiler cleaning—contractors
Boiler erection and installation—contractors
Drainage system installation (cesspool and septic tank)—contractors

Dry well (cesspool) construction—contractors
Fuel oil burner installation and servicing—contractors
Furnace repair—contractors
Gasline hookup—contractors
Heating equipment installation—contractors
Heating, with or without sheet metal work—contractors
Lawn sprinkler system installation—contractors
Mechanical contractors
Piping, plumbing—contractors
Plumbing and heating—contractors
Plumbing repair—contractors
Plumbing, with or without sheet metal work—contractors
Solar heating apparatus—contractors
Sprinkler system installation—contractors
Steam fitting—contractors
Sump pump installation and servicing—contractors
Ventilating work, with or without sheet metal work—contractors
Water pump installation and servicing—contractors
Water system balancing and testing—contractors
Work combined with heating or air-conditioning—contractors

g. Painting and wall covering contractors. Establishments primarily engaged in interior or exterior painting and interior wall covering. The painting and wall covering work includes new work, additions, alterations, and maintenance and repairs.

Bridge painting—contractors
Electrostatic painting on site (including lockers and fixtures)—contractors
House painting—contractors
Painting of buildings and other structures, except roofs—contractors
Paper hanging—contractors
Ship painting—contractors
Traffic lane painting—contractors
Wallpaper removal—contractors
Whitewashing—contractors

h. Electrical contractors. Establishments primarily engaged in one or more of the following: (1) performing electrical work at the site; (2) servicing electrical equipment at the site; and (3) the combined activity of selling and installing electrical equipment. The electrical work performed includes new work, additions, alterations, and maintenance and repairs.

Cable splicing, electrical—contractors
Cable television hookup—contractors
Communication equipment installation—contractors
Electric work—contractors
Electrical repair at site of construction—contractors
Electronic control system installation—contractors
Highway lighting and electrical signal construction—contractors
Intercommunication equipment installation—contractors
Sound equipment installation—contractors
Telecommunications equipment installation—contractors
Telephone and telephone equipment installation—contractors

i. Masonry, stone work, tile setting and plastering.

(1) Masonry and stone contractors. Establishments primarily engaged in masonry work, stone setting, and other stone work. The masonry work, stone setting and other stone work performed includes new work, additions, alterations, and maintenance and repairs.

Bricklaying—contractors
Cement block laying—contractors
Chimney construction and maintenance—contractors
Concrete block laying—contractors
Foundations, building of: block, stone or brick—contractors
Marble work, exterior construction—contractors
Masonry—contractors
Refractory brick construction—contractors
Retaining wall construction: block, stone or brick—contractors
Stone setting—contractors
Stone work erection—contractors
Tuck pointing—contractors

(2) Drywall, plastering, acoustical, and insulation contractors. Establishments primarily engaged in drywall, plaster work, acoustical and building insulation work. The drywall, plaster work, acoustical and insulation work performed includes new work, additions, alterations, and maintenance and repairs.

Acoustical work—contractors
Ceilings, acoustical installation—contractors
Drywall construction—contractors
Insulation installation, buildings—contractors
Lathing—contractors
Plastering, plain or ornamental—contractors
Solar reflecting insulation film—contractors
Stucco construction—contractors
Taping and finishing drywall—contractors

(3) Tile, marble, terrazzo, and mosaic contractors. Establishments primarily engaged in (1) setting and installing ceramic tile, marble (interior only), terrazzo, and mosaic, or (2) mixing marble particles and cement to make terrazzo at the job site. The tile, marble, terrazzo, and mosaic work performed includes new work, additions, alterations, and maintenance and repairs.

Fresco work—contractors
Mantel work—contractors
Marble installation, interior; including finishing—contractors
Mosaic work—contractors
Terrazzo work—contractors
Tile installation, ceramic—contractors
Tile setting, ceramic—contractors

j. Carpentering and floor contractors.

(1) Carpentry contractors. Establishments primarily engaged in framing, carpentry, and finishing work. The carpentry work performed includes new work, additions, alterations, and maintenance and repairs.

Carpentry work—contractors
Folding door installation—contractors
Framing—contractors
Garage door installation—contractors
Joinery, ship—contractors
Ship joinery—contractors
Store fixture installation—contractors
Trim and finish—contractors
Window and door (prefabricated) installation—contractors

(2) Floor laying and other floor contractors. Establishments primarily engaged in the installation of resilient floor tile, carpeting, linoleum, and wood or resilient flooring. The floor laying and other floor work performed includes new work, additions, alterations, and maintenance and repairs.

Asphalt tile installation—contractors
Carpet laying or removal service—contractors
Fireproof flooring construction—contractors
Floor laying, scraping, finishing and refinishing—contractors
Flooring, wood—contractors
Hardwood flooring—contractors
Linoleum installation—contractors
Parquet flooring—contractors
Resilient floor laying—contractors
Vinyl floor tile and sheet installation—contractors

k. Roofing, siding, and sheet metal contractors. Establishments primarily engaged in the installation of roofing, siding, sheet metal work, and roof drainage-related work, such as downspouts and gutters. The roofing, siding and sheet metal work performed includes new work, additions, alterations, and maintenance and repairs.

Architectural sheet metal work—contractors
Ceilings, metal; erection and repair—contractors
Coppersmithing, in connection with construction work—contractors
Downspout installation, metal—contractors
Duct work, sheet metal—contractors
Gutter installation, metal—contractors
Roof spraying, painting or coating—contractors
Roofing work, including repairing—contractors
Sheet metal work: except plumbing, heating or air-conditioning—contractors
Siding—contractors
Skylight installation—contractors
Tinsmithing, in connection with construction work—contractors

l. Concrete contractors. Establishments primarily engaged in the use of concrete and asphalt to produce parking areas, building foundations, structures, and retaining walls and the use of all materials to produce patios, private driveways and private walks. The concrete work performed includes new work, additions, alterations, and maintenance and repairs.

Asphalting of private driveways and private parking areas—contractors
Blacktop work; private driveways and private parking areas—contractors
Concrete finishers—contractors
Concrete work: private driveways, sidewalks, and parking areas—contractors
Culvert construction—contractors
Curb construction—contractors
Foundations, building of: poured concrete—contractors
Grouting work—contractors
Gunite work—contractors
Parking lot construction—contractors
Patio construction, concrete—contractors
Sidewalk construction, except public—contractors

m. Water well drilling contractors. Establishments primarily engaged in drilling, tapping, and capping of water wells and geothermal drilling. The water well drilling work performed includes new work, additions, alterations, and maintenance and repairs.

Drilling water wells—contractors
Geothermal drilling—contractors
Servicing water wells—contractors

Well drilling, water: except oil or gas field water intake—contractors

n. Other special trade contractors.

(1) Structural steel erection contractors. Establishments primarily engaged in one or more of the following: (1) erecting metal, structural steel and similar products of prestressed or precast concrete to produce structural elements of building exterior, and elevator fronts; (2) setting rods, bars, rebar, mesh and cages to reinforce poured-in-place concrete; and (3) erecting cooling towers and metal storage tanks. The structural steel erection work performed includes new work, additions, alterations, reconstruction, and maintenance and repairs.

Building front installations, metal—contractors

Concrete products, structural precast or prestressed: placing of—contractors

Concrete reinforcement, placing of—contractors

Curtain wall installation—contractors

Elevator front installation, metal—contractors

Iron work, structural—contractors

Metal furring—contractors

Steel work, structural—contractors

Storage tanks, metal; erection—contractors

Storefront installation, metal—contractors

(2) Glass and glazing contractors. Establishments primarily engaged in installing glass or tinting glass. The glass work performed includes new work, additions, alterations, and maintenance and repairs.

Glass installation, except automotive—contractors

Glass work, except automotive—contractors

Glazing work—contractors

Tinting glass—contractors

(3) Excavation contractors. Establishments primarily engaged in preparing land for building construction. The excavation work performed includes new work, additions, alterations, and repairs.

Excavation work—contractors

Foundation digging (excavation)—contractors

Grading: except for highways, streets and airport runways—contractors

(4) Wrecking and demolition contractors. Establishments primarily engaged in wrecking and demolition of buildings and other structures.

Concrete breaking for streets and highways—contractors

Demolition of buildings or other structures, except marine—contractors

Dismantling steel oil tanks, except oil field work—contractors

Underground tank removal—contractors

Wrecking of building or other structures, except marine—contractors

(5) Building equipment and other machinery installation contractors. Establishments primarily engaged in one or more of the following: (1) the installation or dismantling of building equipment, machinery or other industrial equipment; (2) machine rigging; and (3) millwrighting. The building equipment and other machinery installation work performed includes new work, additions, alterations, and maintenance and repairs.

Conveyor system installation—contractors

Dismantling of machinery and other industrial equipment—contractors

Dumbwaiter installation—contractors

Dust collecting equipment installation—contractors

Elevator installation, conversion, and repair—contractors

Incinerator installation, small—contractors

Installation of machinery and other industrial equipment—contractors

Machine rigging—contractors

Millwrights

Pneumatic tube system installation—contractors
Power generating equipment installation—contractors
Revolving door installation—contractors
Vacuum cleaning systems, built-in—contractors

(6) All other special trade contractors. Establishments primarily engaged in specialized construction work. The other specialized work performed includes new work, additions, alterations, and maintenance and repairs.

Antenna installation, except household type—contractors
Artificial turf installation—contractors
Awning installation—contractors
Bathtub refinishing—contractors
Boring for building construction—contractors
Bowling alley installation and service—contractors
Cable splicing service, nonelectrical—contractors
Caulking (construction)—contractors
Cleaning building exteriors—contractors
Cleaning new buildings after construction—contractors
Coating of concrete structures with plastic—contractors
Core drilling for building construction—contractors
Countertop installation—contractors
Dampproofing buildings—contractors
Dewatering—contractors
Diamond drilling for building construction—contractors
Epoxy application—contractors
Erection and dismantling of forms for poured concrete—contractors
Fence construction—contractors
Fire escape installation—contractors
Fireproofing buildings—contractors
Forms for poured concrete, erection and dismantling—contractors
Gas leakage detection—contractors
Gasoline pump installation—contractors
Glazing of concrete surfaces—contractors
Grave excavation—contractors
House moving—contractors
Insulation of pipes and boilers—contractors
Lead burning—contractors
Lightning conductor erection—contractors
Mobile home site setup and tie down—contractors
Ornamental metal work—contractors
Paint and wallpaper stripping—contractors
Plastic wall tile installation—contractors
Posthole digging—contractors
Sandblasting of building exteriors—contractors
Scaffolding construction—contractors
Service and repair of broadcasting stations—contractors
Service station equipment installation, maintenance and repair—contractors
Shoring and underpinning work—contractors
Spectator seating installation—contractors
Steam cleaning of building exteriors—contractors
Steeplejacks
Swimming pool construction—contractors

Television and radio stations, service and repair of—contractors
Test boring for construction—contractors
Tile installation, wall: plastics—contractors
Waterproofing—contractors
Weatherstripping—contractors
Welding contractors, operating at site of construction
Window shade installation—contractors

23.82(3) *The assignment of standard industrial codes.* Each operating establishment is assigned an industry code on the basis of its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Ideally, the principal product or service should be determined by its relative share of value added at the establishment. Since this is not possible for all sectors of the economy, the following is used as a guide for determining industry codes:

Division	Data Measure
Agriculture, forestry and fishing (except agricultural services)	Value of production
Mining	Value of production
Construction	Value of production
Manufacturing	Value of production
Transportation, communication, electric, gas and sanitary services	Value of receipts or revenues
Wholesale trade	Value of sales
Retail trade	Value of sales
Finance, insurance, and real estate	Value of receipts
Service (including agricultural services)	Value of receipts or revenues
Public administration	Employment or payroll

In some cases it will not be possible to determine even on an estimated basis the value of production or similar appropriate measure for each product or service. In other cases an industrial classification based on measures of output will not accurately reflect the importance of the diversified activities. In these cases, employment or payroll should be used in lieu of the normal basis for determining the primary activity and subsequent code assignment of the establishment.

This rule is intended to conform to federal changes in the North American Industry Classification System and implements Iowa Code sections 96.7(2), 96.7(3), 96.7(4) and 96.11(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

871—23.83(96) References.

23.83(1) All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are to the laws as amended as of November 1, 2024.

23.83(2) All references to the Federal Unemployment Tax Act refer to 23 U.S.C. Sections 3301 through 3311 as amended as of November 1, 2024.

23.83(3) All references to the United States Internal Revenue Code refer to 26 CFR Sections 1 through 9834 as amended as of November 1, 2024.

23.83(4) All references to the United States Federal Insurance Contributions Act refer to 26 U.S.C. Sections 3101 through 3134 as amended as of November 1, 2024.

23.83(5) All references to the United States Balanced Budget and Emergency Deficit Control Act of 1985 refer to PL 99-177 as amended as of November 1, 2024.

23.83(6) All references to the United States Disaster Relief Act of 1974 refer to PL 93-288 as amended as of November 1, 2024.

This rule is intended to implement Iowa Code chapter 96 and section 17A.6.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed emergency 12/23/76—published 1/12/77, effective 12/23/76]
[Filed 9/16/77, Notice 8/10/77—published 10/5/77, effective 11/9/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
[Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
[Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
[Filed 12/5/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
[Filed 4/10/81, Notices 1/21/81, 2/18/81—published 4/29/81, effective 6/4/81
[Filed 4/23/81, Notice 3/18/81—published 5/13/81, effective 6/18/81][1]
[Filed emergency 5/11/81—published 5/27/81, effective 5/11/81]
[Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
[Filed emergency 10/23/81—published 11/11/81, effective 10/23/81]
[Filed 11/6/81, Notice 7/8/81—published 11 /25/81, effective 12/30/81]
[Filed emergency 12/2/81—published 12/23/81, effective 12/2/81]
[Filed emergency 12/8/81—published 1/6/82, effective 12/8/81]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]
[Filed 7/30/82, Notice 6/9/82—published 8/18/82, effective 9/22/82]
[Filed 8/26/82, Notice 7/21/82—published 9/15/82, effective 10/20/82]
[Filed emergency 6/27/83—published 7/20/83, effective 7/1/83]
[Filed emergency 9/23/83—published 10/12/83, effective 10/1/83]
[Filed 2/10/84, Notices 8/31/83, 10/12/83—published 2/29/84, effective 4/5/84][◊]
[Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
[Filed emergency 6/1/84—published 6/20/84, effective 6/21/84]
[Filed 8/24/84, Notice 6/20/84—published 9/12/84, effective 10/17/84]
[Filed 1/11/85, Notice 8/29/84—published 1/30/85, effective 3/6/85]
[Filed 1/14/85, Notice 10/24/84—published 1/30/85, effective 3/6/85]
[Filed 1/14/85, Notice 12/5/84—published 1/30/85, effective 3/6/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
[Filed emergency 6/13/86—published 7/2/86, effective 7/1/86]
[Filed 7/11/86, Notice 5/7/86—published 7/30/86, effective 9/3/86]
[Filed emergency 9/5/86—published 9/24/86, effective 9/5/86][◊]
[Filed 11/7/86, Notice 8/13/86—published 12/3/86, effective 1/7/87]
[Filed emergency 6/12/87—published 7/1/87, effective 7/1/87]
[Filed 6/12/87, Notice 4/8/87—published 7/1/87, effective 8/5/87]
[Filed 6/12/87, Notice 5/6/87—published 7/1/87, effective 8/5/87]
[Filed 7/24/87, Notice 6/3/87—published 8/12/87, effective 9/16/87]
[Filed 9/4/87, Notice 7/1/87—published 9/23/87, effective 10/28/87]
[Filed 2/19/88, Notice 12/30/87—published 3/9/88, effective 4/13/88]
[Filed 4/1/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed 6/24/88, Notice 4/20/88—published 7/13/88, effective 8/17/88]
[Filed 8/5/88, Notice 6/29/88—published 8/24/88, effective 9/28/88]
[Filed 11/14/88, Notices 8/24/88, 10/19/88—published 11/30/88, effective 1/4/89]
[Filed 11/23/88, Notice 10/19/88—published 12/14/88, effective 1/18/89]

[Filed 2/3/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]
[Filed 3/31/89, Notice 2/22/89—published 4/19/89, effective 5/24/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89,effective 11/22/89]
[Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
[Filed 6/22/90, Notice 5/16/90—published 7/11/90, effective 8/15/90]
[Filed 9/28/90, Notice 8/22/90—published 10/17/90, effective 11/21/90]
[Filed 12/21/90, Notice 11/14/90—published 1/9/91, effective 2/13/91]
[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
[Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
[Filed 11/16/94, Notice 9/14/94—published 12/7/94, effective 1/11/95]
[Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]
[Filed 12/28/95, Notice 11/22/95—published 1/17/96, effective 2/21/96]
[Filed 8/22/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Transferred from 345—Ch 3 to 871—Ch 23 IAC Supplement 3/12/97]
[Filed 1/20/99, Notice 12/16/98—published 2/10/99, effective 3/17/99]
[Filed 3/3/00, Notice 1/26/00—published 3/22/00, effective 4/26/00]
[Filed 10/24/01, Notice 9/19/01—published 11/14/01, effective 12/19/01]
[Filed 4/24/03, Notice 3/19/03—published 5/14/03, effective 6/18/03]
[Filed 1/27/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
[Filed ARC 8711B (Notice ARC 8583B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]
[Filed ARC 3247C (Notice ARC 3070C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]
[Filed ARC 3303C (Notice ARC 3178C, IAB 7/5/17), IAB 8/30/17, effective 10/4/17]
[Filed ARC 3342C (Notice ARC 3226C, IAB 8/2/17), IAB 9/27/17, effective 11/1/17]
[Filed ARC 3401C (Notice ARC 3250C, IAB 8/16/17), IAB 10/11/17, effective 11/15/17]
[Filed ARC 3402C (Notice ARC 3254C, IAB 8/16/17), IAB 10/11/17, effective 11/15/17]
[Filed ARC 3529C (Notice ARC 3325C, IAB 9/27/17), IAB 12/20/17, effective 1/24/18]
[Filed ARC 3562C (Notice ARC 3280C, IAB 8/30/17; Amended Notice ARC 3380C, IAB 10/11/17; Amended Notice ARC 3432C, IAB 10/25/17), IAB 1/3/18, effective 2/7/18]
[Filed ARC 3647C (Notice ARC 3522C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]
[Filed ARC 4832C (Notice ARC 4649C, IAB 9/11/19), IAB 12/18/19, effective 1/22/20]
[Filed ARC 6893C (Notice ARC 6606C, IAB 10/19/22), IAB 2/22/23, effective 3/29/23]
[Filed ARC 8848C (Notice ARC 8408C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]
[Filed Emergency ARC 0091D, IAB 3/4/26, effective 2/10/26]
[Filed ARC 0119D (Notice ARC 9940C, IAB 1/7/26), IAB 3/4/26, effective 4/8/26]

◊ Two or more ARCs

1 Agency rescinded prior to effective date

CHAPTER 26
CONTESTED CASE PROCEEDINGS

[Prior to 9/24/86, Employment Security[370] Ch 6]
[Former 345—6.5(96) and 6.8(96) transferred to 345—9.2(17A,96) and 9.1(17A,96) respectively, IAC 6/10/92]
[Prior to 3/12/97, Job Service Division [345] Ch 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/8/31

871—26.1(17A,96) Applicability. The rules in this chapter govern the procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.
[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.2(17A,96) Definitions. Terms defined in the Iowa employment security law and the Iowa administrative procedure Act and that are used in these rules shall have the same meaning as provided by such laws. In addition, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Contested case" means a proceeding defined in Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case in Iowa Code section 17A.10A. It specifically includes any appeal from a determination of a representative of the department or any appeal or request for a hearing by an employer or employing unit from an experience rating, charge determination or other decision affecting its liability. Except as provided in subrule 26.16(4), a final decision of the employment appeal board of the department of inspections, appeals, and licensing shall constitute final agency action. A presiding officer's decision shall be the final decision of the department if there is no appeal therefrom to the employment appeal board of the department of inspections, appeals, and licensing or if the appeal is made directly to the district court in lieu of filing an appeal with the employment appeal board of the department of inspections, appeals, and licensing.

"Presiding officer" means an administrative law judge employed by the department of inspections, appeals, and licensing.
[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.3(17A,96) Appeal of unemployment benefits contested case.

26.3(1) An unemployment benefits contested case must be filed by a party within ten calendar days from the date noted on the initial determination. The appeal must be in writing and delivered by mail, by email, online, or in person to the department of inspections, appeals, and licensing's unemployment insurance appeals bureau at Department of Inspections, Appeals, and Licensing, Unemployment Insurance Appeals Bureau, 6200 Park Avenue, Suite 100, East Entrance, Des Moines, Iowa 50321-1270. An online appeal is filed by completing and submitting an online appeal form available in the IowaWorks digital portal.

26.3(2) The appeal should state the following:

a. The name, address and social security number of the claimant;

b. A reference to the decision from which the appeal is taken; and

c. The grounds upon which the appeal is based.

26.3(3) Notwithstanding the provisions of subrule 26.3(1), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 calendar days from the mailing date of the quarterly statement of benefit charges.

26.3(4) Also notwithstanding the provisions of subrule 26.3(1), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 calendar days from the mailing date of the quarterly billing of benefit charges.
[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.4(17A,96) Appeal of employer liability contested case.

26.4(1) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers must be filed by a party no later than 30 calendar days from the mailing date printed on the notice. The appeal must be in writing and delivered by mail, by email, or in person to Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.4(2) The appeal should state the following:

a. The name, address, and Iowa employer account number of the employer;

b. The name and official position of the person filing the appeal;

c. The decision that is being appealed; and

d. The grounds upon which the appeal is based.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.5(17A,96) Notice of hearing.

26.5(1) Notices of hearing shall be sent to all parties at their last-known address at least ten days in advance of the hearing date by first-class mail, email, or other electronic means. Notices of hearing shall contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule.

26.5(2) Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

26.5(3) A hearing will be promptly scheduled and conducted by telephone unless a party requests that it be held in person. In-person hearings will be located at a site designated by UIAB. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or by the manager or chief administrative law judge of the appeals bureau. At the discretion of the presiding officer, witnesses or representatives may be allowed to participate via telephone in an in-person hearing.

26.5(4) Whenever it appears that other parties should be joined to dispose of all issues in a contested case, the presiding officer may so order and may grant such continuance to hold such additional proceedings upon notice to all parties.

26.5(5) Any number of appeals involving similar issues of law or fact may be consolidated for hearing so long as no substantial rights of any party would be prejudiced by so doing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.6(17A,96) Recusal. A presiding officer shall withdraw from participation in the hearing or the making of any decision in a contested case in accordance with provisions outlined in rule 481—10.9(17A).

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.7(17A,96) Withdrawals, dismissals, and continuance.

26.7(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of a presiding officer. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by a presiding officer. An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

26.7(2) A hearing may be postponed by the presiding officer for reasons stated in 481—subrule 10.17(3), either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement should be made not less than three days prior

to the scheduled hearing and may be in writing or oral, provided the oral request is recorded by the presiding officer. A party shall not be granted more than one postponement except in the case of extreme emergency.

26.7(3) For good cause shown, the presiding officer may reopen the record, and with notice to all parties, schedule another hearing.

"Good cause," for purposes of this rule, is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include but are not limited to death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, siblings) or other circumstances evidencing an emergency situation that was beyond the party's control and was not reasonably foreseeable.

Examples of circumstances that do not constitute good cause include but are not limited to a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

26.7(4) If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as grounds for appeal to the employment appeal board of the department of inspections, appeals, and licensing upon the issuance of the presiding officer's final decision in the case.

26.7(5) If good cause for reopening has not been shown, the presiding officer may make a decision based upon whatever evidence is properly in the record or, in appropriate cases, may enter default as set forth in rule 871—26.13(17A,96).

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.8(17A,96) Discovery.

26.8(1) Discovery procedures applicable to civil actions are available to all parties in interest in contested cases.

26.8(2) Unless otherwise limited by a protective order, discovery is not limited. Upon application by any adversely affected party or upon the presiding officer's own motion, the presiding officer may limit discovery in the following situations:

a. The discovery sought is unduly repetitious, or the information sought can be obtained by another method that is more convenient, less burdensome, or less expensive; or

b. The party seeking discovery has had prior ample opportunity to obtain the information; or

c. The discovery is unduly burdensome or expensive when viewed in the context of the factual issues to be resolved, the limited resources of the parties, and the parties' interest in prompt resolution of the contested case.

26.8(3) A party may obtain discovery regarding any matter, not privileged, relevant to the subject matter involved in the contested case, including the existence, description, nature, custody, condition and location of any tangible items and the identity and location of persons having knowledge of discoverable matters. Information may be discovered, even if inadmissible itself, if it appears reasonably calculated to lead to the discovery of admissible evidence. The names of a party's witnesses, their expected testimony, and exhibits to be offered into evidence may be obtained by discovery.

26.8(4) A party who responded to a request for discovery with a response that was complete and accurate when made need not supplement the response to include information obtained later. However, a party must promptly supplement its response to requests for the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called to testify at the hearing, and the party must produce copies of exhibits expected to be offered into evidence at the hearing as such decisions are made. A party must also promptly amend any response if it obtains information showing that its prior response was incorrect when made or, though correct when made, is no longer correct.

26.8(5) No motion relating to discovery, including motions for imposition of sanctions, will be considered unless the moving party states that it made a good-faith but unsuccessful effort to resolve the issues raised in the motion with the opposing party without intervention by the presiding officer.

26.8(6) Upon motion by a party or the person from whom discovery is sought or by any person who may be adversely affected thereby, and for good cause shown, the presiding officer before whom the contested case is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense. Such order may deny the request for discovery or limit terms, conditions, manner, and scope thereof.

26.8(7) A party may, in accordance with subrule 26.8(5), ask the presiding officer for an order compelling discovery if the other party fails within a reasonable time to make a complete, good-faith response. After notice to both parties and hearing on the motion, the presiding officer shall enter an order that denies or compels discovery. This order may be combined with a protective order pursuant to subrule 26.8(6).

26.8(8) Upon written request by any party or upon the presiding officer's own motion, the presiding officer may impose sanctions for the failure to respond to discovery requests; however, sanctions shall not be imposed without prior specific notice from the presiding officer of the contemplated sanction, opportunity to be heard, and, if necessary, further opportunity to cure its failure. The sanctions may include the following:

a. Postponing and rescheduling the hearing if requested by the party demonstrably prejudiced by the failure.

b. Excluding testimony of witnesses not identified in response to a specific request for such information.

c. Excluding from the record those exhibits not identified in response to a specific request for such information.

d. Excluding the party from participating in the contested case proceedings.

e. Dismissing the party's appeal.

26.8(9) Requests for discovery shall be served on the opposing party by ordinary mail or email. Responses must be served on the party requesting the discovery within ten days after the discovery request is sent unless the presiding officer grants an extension of time to comply. Requests for discovery must be made at least ten days before a scheduled contested case hearing. A party's inattention to preparation is not good cause to postpone the hearing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.9(17A,96) Ex parte communications. Ex parte communication is subject to rule 481—10.23(17A).

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.10(17A,96) Motions. Motion practice is subject to rule 481—10.15(10A,17A) with the following exceptions:

1. Written responses to motions may be filed within five days after the motion is served.
2. Motions pertaining to the hearing must be filed and served at least five days prior to the hearing date.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.11(17A,96) Prehearing conference. Prehearing conferences are subject to rule 481—10.16(10A,17A), with the exception that requests for a prehearing conference must be filed within three days prior to hearing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.12(17A,96) Subpoenas for witnesses and documents. Subpoenas are subject to rule 481—10.14(10A,17A) and Iowa Code section 17A.13, with the exception that subpoena requests must be filed within three days prior to hearing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.13(17A,96) Conduct of hearings. The conduct of hearings is governed by rule 481—10.20(17A), with the exception of the additional following subrules:

26.13(1) The presiding officer shall begin each hearing with a brief statement identifying the parties and issues, outlining the history of the case, advising the parties of their appeal rights and announcing what matters, if any, will be officially noticed. Any party may inspect and use any portion of the administrative file necessary for the presentation of its case. The administrative file may include information from the claimant's files maintained in the agency's computer system.

26.13(2) Each party shall be afforded an opportunity for an opening statement and final arguments.

26.13(3) The hearing shall be confined to evidence relevant to the issue or issues stated on the notice of hearing.

26.13(4) If, during the course of a hearing, it appears to the presiding officer that an issue not set forth in the notice of hearing may affect the presiding officer's decision, the presiding officer shall so notify the parties and announce willingness to continue taking testimony on the underlying factual matters if the parties agree to waive on record further notice and make no objection to continuing. If any party objects, the presiding officer shall postpone or continue the hearing and cause new notices of hearing, containing all relevant issues, to be sent to the parties. Notwithstanding, voluntary quits and discharges generally shall be construed to constitute the single issue of separation from employment so that evidence of either or both types of separation may be received in a single hearing.

26.13(5) If factual issues generally relevant to a party's eligibility or liability for benefits but unrelated to the underlying facts in controversy in the present contested case are exposed, the presiding officer may remand the issue to the appropriate section of the department for investigation and preliminary determination.

26.13(6) If a party fails to appear for the hearing, the presiding officer may proceed with the hearing or decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). If no decision has been issued, the absent party may make a written request to reopen the record for good cause as defined in subrule 26.7(3). The presiding officer may reopen the record for additional material, relevant and nonrepetitious evidence not submitted at the case hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party responds to the notice of hearing after the record has been closed and any party that has participated is no longer on the telephone line or present, the presiding officer shall not take the evidence of the late party and the party may file a written request to reopen the record.

c. Once a decision has been entered, the absent party may file an appeal to the employment appeal board to request a new hearing.

26.13(7) Whenever necessary, the presiding officer may require the attendance at a hearing of department employees having knowledge of the facts in controversy or having technical knowledge concerning the issues raised in appeal.

a. If the primary issue is the claimant's ability to work, availability for work or work search, the department may be named as respondent. The presiding officer may call department personnel having knowledge of the facts in controversy as witnesses.

b. If the issue on appeal is an offer of or recall to work or a job referral by a local workforce development center, both the employer making the offer or recall and the workforce development center representative making the referral may be witnesses at the hearing.

c. If the issue on appeal is the claimant's refusal of employment because of wages, the presiding officer may take the testimony of the workforce development representative having knowledge of prevailing wages in the vicinity. The presiding officer may also obtain testimony and evidence of the hours and other conditions of work for similar jobs in the area.

26.13(8) At the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case among themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

26.13(9) The presiding officer may expel or refuse admittance to any party, witness or other person whose conduct at the hearing is disorderly.

26.13(10) If the parties agree that no dispute of material facts exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant material evidence either by stipulation or otherwise as agreed by the parties, without the necessity of a formal evidentiary hearing.

26.13(11) Any party may appear in any proceeding. Any partnership, cooperation, or association may be represented by any of its members or officers or a duly authorized representative of an interested party. Any party may appear by, or be represented by, an attorney-at-law or a duly authorized representative of an interested party.

26.13(12) If a party not attending the hearing will be represented by another person, such person must submit to the presiding officer written proof of the representation, signed by the party such person claims to represent, at least three days before the hearing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.14(17A,96) Evidence. Rules of evidence are followed in accordance with Iowa Code section 17A.14.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.15(17A,96) Recording costs.

26.15(1) The presiding officer shall electronically record all evidentiary hearings, prehearing conferences and hearings on motions, all of which constitute a part of the record of the contested case. A party may, at its own expense, also record any hearing electronically or by certified shorthand reporter.

26.15(2) Upon request of a party, the department shall provide a copy of the whole or a part of the record at a cost, unless there is further appeal, in which event the record shall be provided to all parties at no cost.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

871—26.16(17A,96) Decisions.

26.16(1) The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

a. Set forth the issues, the appeal rights, a concise history of the case, the findings of essential facts, the reasons for the decision and the actual disposition of the case;

b. Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

c. Be sent by first-class mail, email, or other electronic transmission to each of the parties in interest and their representatives.

26.16(2) Copies of all presiding officer decisions shall be kept on file for public inspection at the administrative office of the department of workforce development, filed according to hearing (appeal) number and indexed by the social security number of the claimant.

26.16(3) A presiding officer's decision allowing benefits shall result in the prompt payment of all benefits due. An appeal shall not stay the payment of benefits. A presiding officer's decision reversing an allowance of benefits shall include a statement of overpayment of benefits erroneously paid.

26.16(4) A presiding officer's decision constitutes final agency action in an employer liability contested case.

a. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

b. Any party in interest may file a petition for judicial review in the Iowa district court within 30 days after the issuance of the decision or within 30 days after the denial of the request for rehearing.

26.16(5) In a claimant benefit contested case, final agency action shall be a presiding officer's decision, if no aggrieved party appealed the decision to the employment appeal board within 15 days, or the decision of the employment appeal board, if the aggrieved party appealed the decision to that tribunal.

a. Once final agency action has been established, any party who is aggrieved or adversely affected by the agency action has 30 days to file a petition for judicial review with the district court.

b. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the date that the decision becomes final as a result of the failure to appeal the decision to the employment board. Applications for rehearing filed before this date will be forwarded to the employment appeal board as appeals to that tribunal. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

c. Any party in interest may file a petition for judicial review within 30 days after the denial of the request for rehearing.

[**ARC 0120D**, IAB 3/4/26, effective 4/8/26]

These rules are intended to implement Iowa Code chapters 17A and 96.

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
[Filed emergency 4/20/81—published 5/13/81, effective 4/20/81]
[Filed 11/6/81, Notice 5/13/81—published 11/25/81, effective 12/30/81]
[Filed emergency 1/10/84—published 2/1/84, effective 1/10/84]
[Filed 4/27/84, Notice 2/29/84—published 5/23/84, effective 6/28/84]
[Filed 8/24/84, Notice 6/20/84—published 9/12/84, effective 10/17/84]
[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]
[Filed emergency 9/5/86—published 9/24/86, effective 9/5/86]
[Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
[Filed 12/8/86, Notice 10/22/86—published 12/31/86, effective 2/4/87]
[Filed emergency 6/12/87—published 7/1/87, effective 7/1/87]
[Filed 9/4/87, Notice 7/1/87—published 9/23/87, effective 10/28/87]
[Filed 3/31/89, Notice 2/22/89—published 4/19/89, effective 5/24/89]
[Filed 5/22/92, Notice 4/15/92—published 6/10/92, effective 7/15/92]
[Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
[Transferred from 345—Ch 6 to 871—Ch 26 IAC Supplement 3/12/97]
[Filed 7/2/99, Notice 3/24/99—published 7/28/99, effective 9/1/99][1]
[Filed ARC 1276C (Notice ARC 1094C, IAB 10/16/13), IAB 1/8/14, effective 2/12/14]
[Filed ARC 1277C (Notice ARC 1095C, IAB 10/16/13), IAB 1/8/14, effective 2/12/14]
[Filed ARC 3009C (Notice ARC 2823C, IAB 11/23/16), IAB 3/29/17, effective 5/3/17]
[Filed ARC 3266C (Notice ARC 3137C, IAB 6/21/17), IAB 8/16/17, effective 9/20/17]
[Filed ARC 3343C (Notice ARC 3227C, IAB 8/2/17), IAB 9/27/17, effective 11/1/17]
[Filed ARC 3530C (Notice ARC 3421C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]
[Filed ARC 5727C (Notice ARC 5561C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]
[Filed ARC 6893C (Notice ARC 6606C, IAB 10/19/22), IAB 2/22/23, effective 3/29/23]

[Filed ARC 8688C (Notice ARC 8314C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]
[Filed ARC 0120D (Notice ARC 9939C, IAB 1/7/26), IAB 3/4/26, effective 4/8/26]

[1] At its meeting held August 3, 1999, the Administrative Rules Review Committee voted to impose a 70-day delay on amendments published in the July 28, 1999, Iowa Administrative Bulletin as **ARC 9215A**.