

State of Iowa

Iowa
Administrative
Code
Supplement

Biweekly
March 5, 2014



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

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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

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

Accountancy Examining Board[193A]

Replace Chapter 10

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CHAPTER 10
CONTINUING EDUCATION
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—10.1(542) Scope. The right to use the title “Certified Public Accountant” and “Licensed Public Accountant” is regulated in the public interest and imposes a duty on accounting professionals to maintain public confidence and current knowledge, skills, and abilities in all areas of services. CPAs and LPAs must accept and fulfill their ethical responsibilities to the public and the profession regardless of their fields of employment.

10.1(1) The development of professional competence involves a continued commitment to learning and professional improvement. A CPA and an LPA performing professional services must have a broad range of knowledge, skills and abilities. A program that promotes professional competence in the practice of accountancy is defined as one that refers to the process, methods, or principles of accounting or is directly related to the CPA’s and LPA’s employment and is above the level of the CPA’s and LPA’s current knowledge.

10.1(2) Acceptable subjects for continuing professional education include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including nontechnical professional skills, may be approved by the board if they maintain or improve CPAs’ and LPAs’ competence in their current employment.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.2(542) Definitions. The following definitions shall be applicable to the rules of this chapter.

“*Continuing professional education (CPE)*” means education that is acquired by a licensee in order to maintain, improve, or expand skills and knowledge present at initial licensure or to develop new and relevant skills and knowledge.

“*Firm meeting*” means a formally arranged gathering/assembly of staff or management groups or both to inform them of administrative matters.

“*Formal program*” means a structured learning activity based on clearly defined learning objectives and outcomes that articulate achievable knowledge, skills and abilities.

“*In-house or on-site training*” means a formally organized professional educational program sponsored by the employer.

“*Live instruction*” means an educational program delivered in a classroom setting or through videoconferencing whereby the instructor and student carry out essential tasks while together. Examples include distance learning and Webcasts.

“*Nontechnical professional skills*” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that indirectly relate to the holder’s field of business. “Nontechnical professional skills” includes, but is not limited to, the following programs or courses:

1. Communication;
2. Interpersonal management;
3. Leadership and personal development;
4. Client and public relations;
5. Practice development;
6. Marketing;
7. Motivational and behavioral; and
8. Speed reading and memory building.

“*Qualified instructor*” means an individual whose training and experience adequately prepares the individual to carry out specified training assignments.

“*Self-study*” means a computer-generated program, such as CD-ROM, or written materials or exercises intended for self-study which do not include simultaneous interaction with an instructor but do include tests transmitted to the provider for review and grading.

“*Technical professional skills*” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that directly relate

to the holder's field of business. "Technical professional skills" includes, but is not limited to, the following programs or courses:

1. Auditing standards or procedures;
2. Compilation and review of financial statements;
3. Financial statement preparation and disclosures;
4. Attestation standards and procedures;
5. Projection and forecast standards or procedures;
6. Accounting and auditing;
7. Management advisory services;
8. Personal financial planning;
9. Taxation;
10. Management information systems;
11. Budgeting and cost analysis;
12. Asset management;
13. Professional ethics;
14. Specialized areas of industry;
15. Human resource management;
16. Economics;
17. Business law;
18. Mathematics, statistics and quantitative applications in business;
19. Business management and organization;
20. General computer skills, computer software training, information technology planning and management;
21. Operations management, inventory, and production; and
22. Negotiation or dispute resolution.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.3(542) Applicability. Each active certificate holder or license holder, including persons working in private industry or education, is required to comply with the continuing professional education requirements as a condition precedent to the renewal of the certificate or license.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.4(542) Cost of continuing professional education. All costs of complying with the continuing professional education requirements of the board are the responsibility of the certificate holder or license holder wishing to maintain registration in this state.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.5(542) Basic requirement. During the three-year period ending on the December 31 preceding the July 1 renewal date of the certificate or license, an applicant for renewal shall have completed 120 hours of qualifying continuing professional education subject to the following exceptions:

10.5(1) At the first annual renewal date of July 1 that is less than 12 months from the date of filing the initial application for the certificate or license, the certificate holder or license holder shall not be required to report continuing professional education.

10.5(2) At the annual renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of filing the initial application for the certificate or license, the certificate holder or license holder shall report 40 hours of continuing professional education earned in the one-year period ending December 31 prior to the July 1 renewal date.

10.5(3) At the annual renewal date of July 1 that is more than 24 months, but less than 36 months, from the date of filing the initial application for the certificate or license, the certificate holder or license holder shall report 80 hours of continuing professional education earned in the two-year period ending December 31 prior to the July 1 renewal date.

10.5(4) An applicant who wishes to restore a certificate or license to active status must meet the basic requirement of 120 hours of continuing professional education earned in the preceding three-year period prior to the date of application to restore active status.

10.5(5) A licensee shall be deemed to have complied with the requirements of this rule if, for the period that the licensee is a resident of another state or district having a continuing professional education requirement, the licensee met the resident state's mandatory requirement.

10.5(6) The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age.

10.5(7) Licensees who apply to reinstate a lapsed or inactive certificate or license to active status pursuant to 193A—subrule 5.6(3) or 5.9(7) shall satisfy the basic requirement of 120 hours of continuing professional education earned in the preceding three-year period prior to the date of the application, including all required mandatory education described in rule 193A—10.7(542), to reinstate on an annual renewal schedule, modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(1) to 10.5(3). Once the certificate or license is reinstated, the basic requirement shall apply at each subsequent renewal.

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 1360C, IAB 3/5/14, effective 4/9/14]

193A—10.6(542) Measurement standards. The following standards will be used to measure the hours of credit to be given for qualifying continuing professional education programs completed by individual applicants:

10.6(1) Credit is measured with one 50-minute period equaling one contact hour of credit. Half-hour credits may be allowed (equal to not less than 25 minutes) after the first hour of credit has been earned.

10.6(2) Only class hours or the equivalent, and not student hours devoted to preparation, will be counted.

10.6(3) Credit expressed as continuing education units (CEUs) shall be counted as ten contact hours for each continuing professional education unit. (.1 CEU = 1 CPE)

10.6(4) Service as lecturer or discussion leader of continuing professional education programs will be counted to the extent that this service contributes to the applicant's professional competence.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.7(542) Mandatory education required.

10.7(1) Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. When required, the financial statement presentation continuing education shall be completed within the three-year period ending on the December 31 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) shall be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.

10.7(2) Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the three-year period ending December 31, prior to the July 1 annual renewal date. For a course to qualify to meet this requirement, the course description shall clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in rule 193A—10.6(542), measurement standards, specifically in subrule 10.6(1), shall be devoted to business or professional ethics. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour

shall be claimed toward meeting the requirement of this subrule. Ethics courses, which are defined as courses dealing with regulatory and behavioral ethics, shall be limited to courses on the following:

- a. Professional standards;
- b. Licenses and renewals;
- c. SEC oversight;
- d. Competence;
- e. Acts discreditable;
- f. Advertising and other forms of solicitation;
- g. Independence;
- h. Integrity and objectivity;
- i. Confidential client information;
- j. Contingent fees;
- k. Commissions;
- l. Conflicts of interest;
- m. Full disclosure;
- n. Malpractice;
- o. Record retention;
- p. Professional conduct;
- q. Ethical practice in business;
- r. Personal ethics;
- s. Ethical decision making; and
- t. Corporate ethics and risk management as these topics relate to malpractice and relate solely to the practice of certified public accounting.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.8(542) Programs that qualify and CPE limitations.

10.8(1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual certified or licensed in this state. It will be left to each individual certificate holder or license holder to determine the technical or nontechnical professional skills courses of study to be pursued. Thus, the auditor may study accounting and auditing, the tax practitioner may study taxes, and the management advisory services practitioner may study subjects related to such practice. Job-related continuing professional education shall qualify as acceptable provided the courses selected from nontechnical professional skills contribute to the professional competence of the certificate holder or license holder.

10.8(2) Program standards:

- a. Learning activities must be based on clearly defined, relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants.
- b. Learning activities must be developed in a manner consistent with the prerequisite education, experience, and advanced preparation of the participants.
- c. Activities, materials, and delivery systems must be current, technically accurate, and effectively designed. Providers, sponsors, or contractors must be competent in the subject matter. Competence may be demonstrated through practical experience or education.
- d. Learning programs must be reviewed by qualified persons other than those who develop the program to ensure that the program is technically accurate and current and addresses the stated learning objectives. This requirement is waived for single presentations such as lectures that are given once.

10.8(3) Continuing professional education programs will qualify only if:

- a. An outline of the program is prepared in advance and preserved.
- b. The program is at least one hour (50-minute period) in length.
- c. The program is conducted by a qualified instructor, discussion leader or lecturer. A qualified instructor, discussion leader or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.

d. A record of attendance or certification of completion or transcript is maintained.

10.8(4) The following programs are deemed to qualify provided all other requirements of this rule are met.

a. Professional development programs of recognized national and state accounting organizations.

b. Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

c. Formally organized in-house or on-site educational programs provided by the certificate holder's or license holder's employer.

d. Distance learning programs or group study Webcast programs.

e. University or college courses meet the continuing professional education requirements of those attending.

Each semester hour shall be equal to 15 contact hours of credit. Each quarter hour shall be equal to 10 contact hours of credit.

f. Technical or nontechnical sessions offered by employers in business and industry, as well as firms of certified public accountants.

10.8(5) Formal correspondence and formal self-study programs contributing directly to the professional competence of an individual that require registration and provide evidence of satisfactory completion will be considered for credit. The amount of credit to be allowed for correspondence and formal self-study programs (including tested study programs) shall be recommended by the program sponsor and based upon appropriate "field tests" and shall not exceed 50 percent of the renewal requirement. A licensee claiming credit for correspondence or formal self-study courses is required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

10.8(6) Credit may be allowed for self-study programs on the basis of one hour of credit for each 50 minutes spent on the self-study program if the developer of such programs is approved by either the national continuing professional education registry or by the NASBA continuing education registry and the program sponsor has not designated the amount of credit to be claimed for completing the course of study. The licensee must estimate the equivalent number of hours and justify the amount of hours claimed. The maximum credit shall not exceed 50 percent of the renewal requirement. Credit will be allowed in the renewal period in which the course is completed.

10.8(7) The credit allowed an instructor, discussion leader, or speaker will be on the basis of two hours for subject preparation for each hour of teaching. Credit for teaching college or university coursework may be claimed for courses taught above the elementary accounting or principles of accounting level. Repetitious presentations shall not be considered. The maximum credit for such preparation and teaching shall not exceed 50 percent of the renewal period requirement.

10.8(8) Credit may be awarded for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period requirement. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that the licensee believes justify additional credit.

10.8(9) Credit may be allowed for the successful completion of professional examinations as detailed below. Credit is calculated at the rate of five times the length of each examination, which is presumed to include all preparation time, claimed in the calendar year of the examination, and limited to 50 percent of the total renewal requirement.

a. Certified Management Accountant/CMA.

b. Certified Information Systems Auditor/CISA.

c. Certified Information Technology Professional/CITP.

d. Certified Financial Planner/CFP.

e. Enrolled Agent/EA.

f. Certified Governmental Financial Manager/CGFM.

g. Certified Government Auditing Professional/CGAP.

- h.* Certified Internal Auditor/CIA.
- i.* Accredited Business Valuation/ABV.
- j.* Certified Financial Forensics/CFF.
- k.* Certified Valuation Analyst/CVA.
- l.* Certified Insolvency & Restructuring Advisor/CIRA.
- m.* Forensic Certified Public Accountant/FCPA.
- n.* Certified Fraud Examiner/CFE.
- o.* Certified Business Analyst/CBA.
- p.* Certified Trust and Financial Advisor/CTFA.
- q.* Chartered Financial Analyst/CFA.
- r.* Registered Representative, Series 6 and 7 and other examinations.
- s.* Registered Investment Advisor/RIA.
- t.* Certified Forensic Accountant/CrFA.
- u.* Personal Financial Specialist/PFS.
- v.* Chartered Life Underwriter/CLU.
- w.* Fellow of the Society of Actuaries/FSA.
- x.* Chartered Property & Casualty Underwriter/CPCU.
- y.* Fellow Life Management Institute/FLMI.
- z.* Other similar examinations approved by the board.

10.8(10) Firm meetings for staff or management groups for the purpose of administrative and firm matters do not meet the standards set forth in subrule 10.8(1).

10.8(11) Dinner, luncheon and breakfast meetings of recognized organizations may qualify if they meet the appropriate requirements and shall be limited to 25 percent of the total renewal requirements if the individual meeting is no more than two hours long.

10.8(12) Continuing professional education taken in nontechnical skills area as defined in rule 193A—10.2(542) shall be limited to 50 percent of the total renewal requirement.

10.8(13) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

10.8(14) The right is specifically reserved to the board to approve or deny credit for continuing professional education claimed under these rules.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.9(542) Controls and reporting.

10.9(1) An applicant for renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing professional education in which the licensee has participated. The board, in certain instances, may allow for attestation that the licensee has met the requirements in lieu of providing a listing. If requested to provide a listing of the continuing professional education completed, the documentation shall include:

- a.* School, firm or organization conducting the course and contact information.
- b.* Location of course.
- c.* Title of course or description of content.
- d.* Principal instructor.
- e.* Dates attended.
- f.* Hours claimed.
- g.* Certificate of completion.
- h.* Name of participant.
- i.* Course field of study.
- j.* Type of instruction or delivery method.
- k.* Amount of CPE recommended.
- l.* Verification by CPE program sponsor representative.

Canceled checks and registration forms are NOT proof of attendance.

10.9(2) The board may require sponsors of courses to furnish an attendance record, a certification of completion or any other information the board deems essential for administration of these continuing professional education rules.

10.9(3) The board will verify, on a test basis, information submitted by licensees. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

10.9(4) Primary responsibilities for documenting the requirements shall be with the licensee, and evidence to support fulfillment of those requirements must be retained for a period of three years subsequent to submission of the report claiming the credit. (Refer to 193A—subrule 14.3(1) and Iowa Code section 542.10(1)(a), which provides for permanent revocation based on fraud or deceit in procuring a license.) Satisfaction of the requirements, including retention of attendance records, certification of completion records, and written outlines, may be accomplished as follows:

a. For courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the licensee.

b. For correspondence and formal independent self-study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the licensee.

c. In all other instances, the licensee must maintain a record of the information as listed in subrule 10.8(3).

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.10(542) Grounds for discipline. A licensee or an applicant is subject to discipline, including permanent revocation, if the licensee or applicant provides false information to the board in connection with an application to renew or reinstate a certificate or license. A licensee or an applicant is also subject to discipline if the licensee or applicant is unable to document the continuing professional education hours reported to the board in connection with an audit or other request for documentation. False information of this nature will subject the licensee or applicant to discipline whether the false information was supplied intentionally or with reckless disregard for the truth or accuracy of the number of hours claimed. Licensees and applicants are accordingly cautioned to supply the board with accurate continuing professional education information.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.11(272C,542) Alternative continuing education cycles authorized.

10.11(1) Purpose. For a variety of reasons, some CPAs and LPAs may wish to satisfy continuing education requirements on a three-year cycle ending on a date other than December 31. By way of illustration, some licensees may prefer to take courses on particular substantive topics that are not always offered at the same time each year. Some licensees may wish to schedule continuing education to comply with the differing requirements of multiple jurisdictions. This rule is intended to authorize a more flexible time frame within which continuing education may be satisfied. This rule does not alter any other requirement of this chapter.

10.11(2) Alternative cycle. Starting with the 2013 renewal cycle, a CPA or LPA may self-select June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the license or certificate. Online and paper renewal forms will require the renewal applicant to declare whether the continuing education was satisfied within the three-year period preceding December 31 or the three-year period preceding June 30. When declaring a June 30 date, licensees must be cautious to ensure the continuing education is fully completed on or prior to the date the renewal application is submitted. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 and may not extend the deadline beyond June 30.

10.11(3) Declaration may vary by renewal cycle. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa. Licensees shall

be expected to maintain continuing education records in a manner that complies with the self-selected declaration in any particular renewal cycle.

[ARC 0558C, IAB 1/9/13, effective 2/13/13]

These rules are intended to implement Iowa Code chapters 272C and 542.

[Filed and effective September 22, 1975 under 17A, C '73]

[Filed 9/27/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 2/8/82, Notice 12/23/81—published 3/3/82, effective 4/7/82]

[Filed 6/22/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 8/1/91, Notice 5/15/91—published 8/21/91, effective 9/25/91]

[Filed 12/17/93, Notice 10/13/93—published 1/5/94, effective 2/9/94]

[Filed 4/12/02, Notice 3/6/02—published 5/1/02, effective 7/1/02]

[Filed 7/18/02, Notice 6/12/02—published 8/7/02, effective 9/11/02]

[Filed 1/19/05, Notice 12/8/04—published 2/16/05, effective 3/23/05]

[Filed 5/10/06, Notice 1/18/06—published 6/7/06, effective 7/12/06]

[Filed ARC 7715B (Notice ARC 7484B, IAB 1/14/09), IAB 4/22/09, effective 7/1/09]

[Filed ARC 9002B (Notice ARC 8835B, IAB 6/16/10), IAB 8/11/10, effective 1/1/11]

[Filed ARC 0558C (Notice ARC 0459C, IAB 11/14/12), IAB 1/9/13, effective 2/13/13]

[Filed ARC 1360C (Notice ARC 1284C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

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CHAPTER 10
INTRASTATE GAS AND UNDERGROUND GAS STORAGE
[Prior to 10/8/86, Commerce Commission[250]]

199—10.1(479) General information.

10.1(1) Authority. The standards relating to intrastate gas and underground gas storage in this chapter are prescribed by the Iowa utilities board (board) pursuant to Iowa Code section 479.17.

10.1(2) Purpose. The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities.

10.1(3) Definitions. Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

“*Approximate right angle*” means within 5 degrees of a 90 degree angle.

“*Board*” means the utilities board within the utilities division of the department of commerce.

“*Multiple line crossing*” means a point at which a proposed pipeline will either overcross or undercross an existing pipeline.

“*Permit*” means a new, amended, or renewal permit issued after appropriate application to and determination by the board.

“*Pipeline*” means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Pipeline company*” means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Renewal permit*” means the extension and reissuance of a permit after appropriate application to and determination by the board.

“*Underground storage*” means storage of gas in a subsurface stratum or formation of the earth.

10.1(4) Railroad crossings. Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

199—10.2(479) Petition for permit.

10.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board’s electronic filing rules at 199—Chapter 14. Required exhibits shall be in the following form:

a. Exhibit A. A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with such other information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.

If it becomes apparent that there will be deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in that area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

b. Exhibit B. Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of such maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated.

(2) The name of the county, county and section lines, and section, township and range numbers.

(3) The location and identity of public roads, railroads, major streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

c. Exhibit C. A showing on forms prescribed by this board of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent.

d. Exhibit D. Satisfactory attested proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to this board in the penal sum of \$250,000 with surety approved by this board, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to this board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000.

e. Exhibit E. Consent or other showing of right of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition and hearing shall be filed with the petition.

If the exact and specific route is uncertain at the time of petition, a statement shall be made by petitioner that all consents or other showing of right will be obtained prior to construction and copies filed with this board.

f. Exhibit F. This exhibit shall contain the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. Exhibit G. If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and for each such property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the line to the rights being sought.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B).

j. Underground storage. If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

10.2(2) Petitions proposing new pipeline construction on an existing easement where the company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

A petition for permit proposing a new pipeline construction on an existing easement where the company has previously constructed a pipeline will not be acted upon by the board if a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration, or court action. This paragraph will not apply if the damage claim is under litigation or arbitration.

10.2(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction will not be acted upon by the board if the company does not have on file with the board a written statement as to how damages resulting from the construction of the pipeline shall be determined and paid.

The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

b. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

c. Nothing in this rule shall prevent a party from negotiating with the company for terms which are different, more specific, or in addition to the statement filed with the board.

This rule is intended to implement Iowa Code sections 479.5, 479.17, 479.26, 479.42, and 479.43.

199—10.3(479) Informational meetings. Informational meetings shall be held for any proposed pipeline project over five miles in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure of over 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or rights therein would be affected. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit and shall comply with the following:

10.3(1) Facilities. Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

10.3(2) Location. The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit.

10.3(3) Route deviation. Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.

10.3(4) Notices. Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the board; a map showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request that appropriate arrangements be made. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3) "b."

b. The prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose address is known. The certified meeting notice shall be deposited in the U.S. mails not less than 30 days prior to the date of the meeting.

c. The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties whose residence is not known provided a good-faith effort to notify can be demonstrated by the pipeline company.

10.3(5) Personnel. The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

- a.* Service requirements and planning which have resulted in the proposed project.
- b.* When the pipeline will be constructed.
- c.* In general terms, the elements involved in pipeline construction.
- d.* In general terms, the rights which the prospective petitioner will seek to acquire through easements.
- e.* Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.
- f.* Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.
- g.* Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.
- h.* Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

10.3(6) Coordinating with board. The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

This rule is intended to implement Iowa Code section 479.5.

[Editorial change: IAC Supplement 12/29/10]

199—10.4(479) Notice of hearing.

10.4(1) When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 199—10.8(479). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to or at the hearing.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

10.4(2) If a petition for permit seeks the right of eminent domain, petitioner shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to the owners and parties in possession of lands over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to their last known address, and this notice shall be mailed not later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all addresses to which notice was sent by certified mail and the date of the mailing.

10.4(3) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained, a copy of the notice of hearing shall be served upon the owners and parties in possession of those lands. Service shall be by ordinary mail, addressed to the last known address, mailed not later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all parties to which it was mailed and the date of mailing, shall be filed with the board not less than five days prior to the hearing.

199—10.5(479) Objections. All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection shall be filed with the secretary of this board not less than five days prior to date of hearing. This board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet such objections.

199—10.6(479) Hearing. Hearing shall be not less than 10 or more than 30 days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of this board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of this board or at any other place within the state of Iowa as this board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.

199—10.7(479) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit shall be issued. Otherwise the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed

within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

A pipeline permit shall normally expire 25 years from date of issue. No permit shall ever be granted for a longer period than 25 years.

199—10.8(479) Renewal permits. A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and prior to expiration of the permit. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by 199—10.4(479). Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

199—10.9(479) Amendment of permits.

10.9(1) An amendment of pipeline permit by the board is required in any of the following circumstances:

- a. Construction of a pipeline paralleling an existing line of petitioner;
- b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);
- c. Relocation of an existing pipeline of petitioner which:
 - (1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or
 - (2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 199—10.3(479) shall be held for these relocations.
- d. Contiguous extension of an underground storage area of petitioner; or
- e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

10.9(2) Petition for amendment. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by this board, an amendment to the permit will be issued. Such amendment shall be subject to the same conditions with respect to completion of construction within two years and the filing of final routing maps as attached to pipeline permits.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

199—10.10(479) Fees and expenses.

10.10(1) Permit expenses. The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting a pipeline permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

10.10(2) Construction inspection. The petitioner shall reimburse the board for the actual unrecovered expenses incurred due to inspection of pipeline construction or testing activities following from a permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

10.10(3) Annual inspection fee. A pipeline company shall pay an annual inspection fee on all pipelines under permit of 50 cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state of Iowa. The fee shall be paid for the calendar year in advance between January 1 and February 1 of each year. When new pipeline subject to the fee is installed, the fee shall be paid beginning the following calendar year. Pipelines removed from service shall remain subject to the fee until the calendar year following the year the board is notified of the removal from service in accordance with rule 199—10.18(479).

199—10.11(479) Inspections. This board shall from time to time examine the construction, maintenance and condition of pipelines, underground storage facilities and equipment used in connection with pipelines or facilities in the state of Iowa to determine if the same are unsafe or dangerous and whether they comply with the appropriate standards of pipeline safety. One or more members of this board, or one or more duly appointed representatives of the board may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

199—10.12(479) Standards for construction, operation and maintenance.

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

- a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through April 9, 2014.
- b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through April 9, 2014.
- c. 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through April 9, 2014.
- d. ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”
- e. 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”
- f. At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

Conflicts between the standards established in paragraphs 10.12(1)“a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

10.12(2) If review of Exhibit C, or inspection of facilities which are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, no final action will be taken by the board on the petition without a satisfactory showing by the petitioner that the noncompliance has been or will be corrected.

10.12(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.
[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—10.13(479) Minimum safety standards. Rescinded IAB 2/21/90, effective 3/28/90.

199—10.14(479) Crossings of highways, railroads, and rivers.

10.14(1) Iowa Code chapter 479 gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended the appropriate other authorities be contacted well in advance of construction to determine what restrictions or conditions may be placed on the crossing, and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

10.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, shall not be constructed unless a showing

of consent by the appropriate authority has been provided by the petitioner as required in paragraph 10.2(1)“e.”

199—10.15(479) River crossings. Rescinded IAB 3/6/91, effective 4/10/91.

199—10.16(479) When a permit is required. A pipeline permit shall be required for any pipeline which will be operated at a pressure of over 150 pounds per square inch gage or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR Part 192. Questions on whether a pipeline requires a permit are to be resolved by the board.

199—10.17(479) Reports to federal agencies.

10.17(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made.

10.17(2) In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers.

10.17(3) Utilities operating in other states shall provide to the board data for Iowa only.

10.17(4) The board shall be notified, as soon as practical, of any reportable incident by calling the board duty officer at (515)745-2332 or by e-mail to dutyofficer@iub.iowa.gov.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—10.18(479) Reportable changes to pipelines under permit.

10.18(1) The board shall receive prior notice of any of the following actions affecting a pipeline under permit:

- a. Abandonment or removal from service.
- b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.
- c. Pressure test, uprating, or increase in operating pressure.
- d. Change in product being transported.
- e. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.
- f. Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

10.18(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

199—10.19(479) Sale or transfer of permit.

10.19(1) No permit shall be sold without prior written approval of the board. A petition for approval shall be jointly filed by the buyer and seller, shall include assurances that the buyer is authorized to transact business in the state of Iowa; is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and if the sale is prior to completion of construction of the pipeline shall show that the buyer has the financial ability to pay up to \$250,000 in damages.

10.19(2) No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.

10.19(3) The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer.

199—10.20(479) Amendments to rules. Rescinded IAB 6/25/03, effective 7/30/03.

These rules are intended to implement Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42, 479.43 and 546.7.

[Filed 7/19/60; amended 8/23/62, 11/14/66]

[Filed emergency 7/1/77—published 7/27/77, effective 7/1/77]

[Filed emergency 9/19/77 after Notice 8/10/77—published 10/5/77, effective 9/19/77]

[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/16/82]

[Filed 2/10/84, Notice 1/4/84—published 2/29/84, effective 4/4/84]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 10/16/87, Notice 8/26/87—published 11/4/87, effective 12/9/87]

[Filed 5/27/88, Notice 2/24/88—published 6/15/88, effective 9/14/88]

[Filed 2/1/90, Notice 9/20/89—published 2/21/90, effective 3/28/90]

[Filed 5/25/90, Notice 2/21/90—published 6/13/90, effective 7/18/90]

[Filed 2/1/91, Notice 6/27/90—published 3/6/91, effective 4/10/91]

[Filed 7/1/93, Notice 3/17/93—published 7/21/93, effective 8/25/93]

[Filed 4/21/95, Notice 9/28/94—published 5/10/95, effective 6/14/95]

[Filed 10/31/97, Notice 5/7/97—published 11/19/97, effective 12/24/97]

[Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]

[Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]

[Filed 4/12/02, Notice 3/6/02—published 5/1/02, effective 6/5/02]

[Filed 6/6/03, Notice 4/2/03—published 6/25/03, effective 7/30/03]

[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]

[Filed 5/2/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 4/18/08, Notice 3/12/08—published 5/7/08, effective 6/11/08]

[Filed 10/31/08, Notice 4/9/08—published 11/19/08, effective 12/24/08]

[Filed ARC 7962B (Notice ARC 7749B, IAB 5/6/09), IAB 7/15/09, effective 8/19/09]

[Editorial change: IAC Supplement 12/29/10]

[Filed ARC 9501B (Notice ARC 9394B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

UTILITIES AND
TRANSPORTATION DIVISIONS

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

[Ch 15 renumbered as Ch 7,10/20/75]

[Prior to 10/8/86, Commerce Commission[250]]

199—15.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601, et seq., shall have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

“*AEP facility*” means any of the following: (1) an electric production facility which derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning; (2) a hydroelectric facility at a dam; (3) land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility; or (4) transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

“*Alternate energy purchase (AEP) program*” means a utility program that allows customers to contribute voluntarily to the development of alternate energy in Iowa.

“*Avoided costs*” means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

“*Backup power*” means electric energy or capacity supplied by an electric utility to qualifying facilities and AEP facilities to replace energy ordinarily generated by a facility’s own generation equipment during an unscheduled outage of the facility.

“*Board*” means the Iowa utilities board.

“*Interconnection costs*” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with qualifying facilities and AEP facilities, to the extent the costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

“*Interruptible power*” means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

“*Maintenance power*” means electric energy or capacity supplied by an electric utility during scheduled outages of qualifying facilities and AEP facilities.

“*Purchase*” means the purchase of electric energy or capacity or both from qualifying facilities and AEP facilities by an electric utility.

“*Qualifying facility*” means a cogeneration facility or a small power production facility which is a qualifying facility under 18 CFR Part 292, Subpart B.

“*Rate*” means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

“*Sale*” means the sale of electric energy or capacity or both by an electric utility to qualifying facilities and AEP facilities.

“*Supplementary power*” means electric energy or capacity supplied by an electric utility, regularly used by qualifying facilities and AEP facilities in addition to that which the facility generates itself.

“*System emergency*” means a condition on a utility’s system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

199—15.2(476) Scope.**15.2(1) *Applicability.***

a. Subrule 15.2(2) and rule 199—15.10(476) of this chapter apply to all electric utilities, all qualifying facilities, and all AEP facilities.

b. Rule 199—15.3(476) of this chapter applies to electric utilities which are subject to rate regulation by the board.

c. Rules 199—15.4(476) and 199—15.5(476) of this chapter apply to qualifying facilities and electric utilities which are subject to rate regulation by the board.

d. Rules 199—15.6(476) to 199—15.9(476) of this chapter apply to all qualifying facilities and AEP facilities, and electric utilities which are subject to rate regulation by the board.

e. Rule 199—15.11(476) of this chapter lists additional requirements that apply to AEP facilities, and electric utilities which are subject to rate regulation by the board, pursuant to Iowa Code sections 476.41 to 476.45.

15.2(2) *Negotiated rates or terms.* These rules do not:

a. Limit the authority of any electric utility, any qualifying facility, or any AEP facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by these rules; or

b. Affect the validity of any contract entered into between an electric utility and a qualifying facility or AEP facility for any purchase.

199—15.3(476) Information to board. In addition to the information required to be supplied to the board under 18 CFR 292.302, all rate-regulated electric utilities shall supply to the board copies of contracts executed for the purchase or sale, for resale, of energy or capacity. If the purchases or sales are made other than pursuant to the terms of a written contract, then information as to the relevant prices and conditions shall be supplied to the board. All information required to be supplied under this rule shall be filed with the board by May 1 and November 1 of each year for all transactions occurring since the last filing was made.

199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities. For purposes of this rule, “electric utility” means a rate-regulated electric utility.

15.4(1) *Obligation to purchase from qualifying facilities.* Each electric utility shall purchase, in accordance with these rules, any energy and capacity which is made available from a qualifying facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.4(4).

15.4(2) *Obligation to sell to qualifying facilities.* Each electric utility shall sell to any qualifying facility, in accordance with these rules and the other requirements of law, any energy and capacity requested by the qualifying facility.

15.4(3) *Obligation to interconnect.* Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with rule 199—15.8(476). However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

15.4(4) *Transmission to other electric utilities.* If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

15.4(5) *Parallel operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities. For purposes of this rule, “electric utility” or “utility” means a rate-regulated electric utility.

15.5(1) *Rates for purchases.* Rates for purchases shall:

a. Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

b. Not discriminate against qualifying cogeneration and small power production facilities. Nothing in these rules requires any electric utility to pay more than the avoided costs, as set forth in these rules, for purchases.

15.5(2) *Relationship to avoided costs.* For purposes of this subrule, “new capacity” means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies the requirements of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subrule 15.5(6); except that a rate for purchases other than from new capacity may be less than the avoided cost if the board determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to the requirements of this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

15.5(3) *Standard rates for purchases.* Each electric utility shall file and maintain with the board tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kilowatts or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility’s avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the board for an allowance of the capacity credit. The petition shall be handled by the board as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

The board may require utilities interconnected with qualifying facilities to provide metering and other equipment necessary for the collection test and monitoring of information concerning the time and conditions under which energy and capacity are available from the qualifying facility. The costs of such metering shall be treated by the utility in the same manner as any other research expenditure.

15.5(4) *Other purchases.* Rates for purchases from qualifying facilities with a design capacity of greater than 100 kilowatts shall be determined in contested case proceedings before the board, unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

15.5(5) *Purchases “as available” or pursuant to a legally enforceable obligation.* Each qualifying facility shall have the option either:

a. To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility’s avoided costs calculated at the time of delivery; or

b. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: The avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

15.5(6) Factors affecting rates for purchases. In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

a. The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.

b. The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.

c. The time of day or season during which capacity or energy is available, including:

(1) The ability of the utility to dispatch the qualifying facility;

(2) The expected or demonstrated reliability of the qualifying facility;

(3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

(4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation; and

(6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

15.5(7) Periods during which purchases not required. Any electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that any electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. Any electric utility which fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the board.

[ARC 0781C, IAB 6/12/13, effective 7/17/13]

199—15.6(476) Rates for sales to qualifying facilities and AEP facilities by rate-regulated utilities. For purposes of this rule, "utility" means a rate-regulated electric utility. Rates for sales to qualifying facilities and AEP facilities shall be just, reasonable and in the public interest, and shall not discriminate against qualifying facilities and AEP facilities in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities and AEP facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of qualifying facilities and AEP facilities can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.7(476) Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities. For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

15.7(1) Upon request of qualifying facilities and AEP facilities, each electric utility shall provide supplementary power, backup, maintenance power, and interruptible power. Rates for such service shall meet the requirements of subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

The board may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

- a. Impair the electric utility's ability to render adequate service to its customers, or
- b. Place an undue burden on the electric utility.

15.7(2) Reserved.

199—15.8(476) Interconnection costs. For purposes of this rule, "utility" means a rate-regulated electric utility.

15.8(1) Qualifying facilities and AEP facilities shall be obligated to pay interconnection costs, as described in 199—Chapter 45.

15.8(2) Reserved.

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

199—15.9(476) System emergencies. For purposes of this rule, "electric utility" means a rate-regulated electric utility. Qualifying facilities and AEP facilities shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

15.9(1) Provided by agreement between the qualifying facility or AEP facility and the electric utility; or

15.9(2) Ordered under Section 202(c) of the Federal Power Act. During any system emergency, an electric utility may immediately discontinue:

- a. Purchases from qualifying facilities and AEP facilities if purchases would contribute to the emergency; and
- b. Sales to qualifying facilities and AEP facilities, provided that the discontinuance is on a nondiscriminatory basis.

199—15.10(476) Standards for interconnection, safety, and operating reliability. For purposes of this rule, "electric utility" or "utility" means both rate-regulated and non-rate-regulated electric utilities.

15.10(1) Acceptable standards. The interconnection of qualifying facilities and AEP facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE Standard 1547-2003. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

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

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

c. National Electrical Code, ANSI/NFPA 70-2011.

15.10(2) Modifications required. Rescinded IAB 7/23/03, effective 8/27/03.

15.10(3) Interconnection facilities.

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

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

c. Facilities with a design capacity of 100 kilowatts or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

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

15.10(4) Access. If an isolation device is required by the utility, both the operator of the qualifying facility or AEP facility and the utility shall have access to the isolation device at all times. An interconnection customer may elect to provide the utility with access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the isolation device. The lockbox shall be in a location determined by the utility to be accessible by the utility. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to utility operating personnel for accessing the isolation device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

15.10(5) Inspections. The operator of the qualifying facility or AEP facility shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 15.10(3) for inspection and testing.

15.10(6) Emergency disconnection. In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the qualifying facility or AEP facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

[ARC 8859B, IAB 6/16/10, effective 7/21/10; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—15.11(476) Additional rate-regulated utility obligations regarding AEP facilities. For purposes of this rule, “MW” means megawatt, “MWH” means megawatt-hour, and “utility” means a rate-regulated electric utility.

15.11(1) Obligation to purchase from AEP facilities. Each utility shall purchase, pursuant to contract, its share of at least 105 MW of AEP generating capacity and associated energy production. The utility's share of 105 MW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 FERC Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105 MW is determined to be as follows:

	Percentage Share of Iowa Peak	Utility Share of 105 MW
Interstate Power and Light	47.43%	49.8 MW
MidAmerican Energy	52.57%	55.2 MW

A utility is not required to purchase from an AEP facility that is not owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following: (1) is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from AEP facilities; and (2) does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

15.11(2) Purchases pursuant to a legally enforceable obligation. Each AEP facility shall provide electricity on a best-efforts basis pursuant to a legally enforceable obligation for the delivery of electricity over a specified contract term.

15.11(3) Annual reporting requirement. Beginning April 1, 2004, each utility shall file an annual report listing nameplate MW capacity and associated monthly MWH purchased from AEP facilities, itemized by AEP facility.

15.11(4) Tariff filings. Rescinded IAB 6/16/10, effective 7/21/10.

15.11(5) Net metering. Each utility shall offer to operate in parallel through net metering (with a single meter monitoring only the net amount of electricity sold or purchased) with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the fixed or negotiated buy-back rate, and any electricity provided to the AEP facility by the utility is sold to the facility at the tariffed rate.

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

199—15.12(476) Rates for purchases from qualifying alternate energy and small hydro facilities by rate-regulated electric utilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.13(476) Rates for sales to qualifying alternate energy production and small hydro facilities by rate-regulated utilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.14(476) Additional services to be provided to qualifying alternate energy production and small hydro facilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.15(476) Interconnection costs. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.16(476) System emergencies. Rescinded IAB 7/23/03, effective 8/27/03.

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

199—15.17(476) Alternate energy purchase programs.

Any consumer-owned utility, including any electric cooperative corporation or association or any municipally owned electric utility, may apply to the board for a waiver under this rule.

This rule shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers.

15.17(1) Obligation to offer programs.

a. Beginning January 1, 2004, each electric utility, whether or not subject to rate regulation by the board, shall offer an alternate energy purchase program that allows customers to contribute voluntarily to the development of alternate energy in Iowa, and allows for the exceptions listed in paragraph 15.17(1)“c.”

b. Each electric utility subject to rate regulation by the board, except for utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall demonstrate on an annual basis that it produces or purchases sufficient energy from program AEP facilities located in Iowa to meet the needs of its Iowa program. These Iowa-based AEP facilities shall not include AEP facilities for which the utility has sought cost recovery under rule 199—20.9(476) prior to July 1, 2001.

c. The electric utility may partially or fully base its program on energy produced by AEP facilities located outside of Iowa under any of the following circumstances:

(1) The energy is purchased by the electric utility pursuant to a contract in effect prior to July 1, 2001, and continues until the expiration of the contract, including any options to renew that are exercised by the electric utility.

(2) The electric utility has a financial interest, as of July 1, 2001, in an AEP facility that is located outside of Iowa or in an entity that has a financial interest in an AEP facility located outside of Iowa; or

(3) The energy is purchased by an electric utility that is not subject to rate regulation by the board, or which elects rate regulation pursuant to Iowa Code section 476.1A, and that is required to purchase all of its electric power requirements from one or more suppliers that are physically located outside of Iowa.

15.17(2) Customer notification.

a. Each electric utility shall notify eligible customer classes of its alternate energy purchase program and proposed program modifications at least 60 days prior to implementation of the program or program modification. The notification shall include, as applicable:

(1) A description of the availability and purpose of the program or program modification, clarifying that customer contributions will not involve the direct sale of alternate energy to individual customers;

(2) The effective date of the program or program modification;

(3) Customer classes eligible for participation;

(4) Forms and levels of customer contribution available to program participants;

(5) A utility telephone number for answering customers' questions about the program; and

(6) Customer instructions that explain how to participate in the program.

b. In addition to the notification requirements under paragraph 15.17(2) "a," each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall:

(1) Include fuel report information described under subrule 15.17(5); and

(2) Submit the proposed notification to the board for approval at least 30 days prior to the proposed date of issuance of the notification.

15.17(3) Program plan filing requirements for rate-regulated utilities. On or before October 1, 2003, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a plan for the utility's alternate energy purchase program. Initial program plans and any subsequent modifications will be subject to board approval. Modification filings need only include information about elements of the program that are being modified. The initial program plan filing shall include:

a. The program tariff;

b. The program effective date;

c. A sample of the customer notification, including a description of the method of distribution;

d. Customer classes eligible for participation and the schedule for extending participation to all customer classes;

e. Identification of each AEP facility used for the program, including:

(1) Fuel type;

(2) Nameplate capacity;

(3) Estimated annual kWh output;

(4) Estimated in-service date;

(5) Ownership, including any utility affiliation;

(6) A copy of any contract for utility purchases from the facility;

(7) A description of the method or procedure used to select the facility;

(8) Facility location; and

(9) If the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1) "c";

f. The forms and levels of customer contribution available to program participants, including, but not limited to:

(1) kWh rate premiums applied to percentages of participant kWh usage, with an explanation of how the kWh rate premiums are derived; or

(2) kWh rate premiums applied to fixed kWh blocks of participant usage, with an explanation of how the kWh rate premiums are derived; or

(3) Fixed contributions, with an explanation of how the fixed amounts are derived;

g. The maximum allowable time lag between the beginning of customer contributions and the in-service date for identified AEP facilities, and the procedures for suspending customer contributions if the maximum time lag is exceeded;

h. The intended treatment of program participants under 199—20.9(476) energy automatic adjustment and AEP automatic adjustment clauses;

i. An accounting plan for identifying and tracking participant contributions and program costs, including:

(1) Identification of incremental program costs not otherwise recovered through the utility's rates, including but not limited to: program start-up and administration costs; program marketing costs; and program energy and capacity costs associated with identified AEP facilities;

(2) Methods for quantifying, assigning, and allocating costs of the program and for segregating those costs in the utility's accounts; and

j. Marketing and customer information plan, including schedules and copies of all marketing and information materials, as available.

15.17(4) Annual reporting requirements for rate-regulated utilities. On or before April 1, 2005, and annually thereafter, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a report of program activity for the previous calendar year. The annual report shall include:

a. Program information including:

(1) The number of program participants, by customer class;

(2) Participant contribution revenues, by customer class, by form and level of contribution, and associated participant kWh sales;

(3) Program electricity generated from each program AEP facility and the associated costs; and

(4) Other program costs, by cost type.

b. An annual reconciliation of participant contributions and program costs.

(1) Program costs are incremental costs associated with the utility's alternate energy purchase program not otherwise recovered through the utility's base tariff rates, and electricity costs dedicated to the program and separated from the utility's 199—20.9(476) energy or AEP automatic adjustment clauses.

(2) The excess of participant contributions over program costs is an annual program surplus, and the excess of program costs over participant contributions is an annual program deficit.

(3) Annual program surpluses and deficits are cumulative over successive years.

(4) A program deficit may be recovered through the utility's 199—20.9(476) AEP automatic adjustment clause.

(5) Any program surplus shall be used to offset prior years' program deficits previously recovered through the AEP automatic adjustment clause, and the offset amount shall be credited through the utility's AEP automatic adjustment clause.

c. Identification of any other AEP or renewable energy requirements being met with program AEP facilities and identification of any revenues derived from the separate sale of the renewable energy attributes of program AEP facilities.

d. Documentation that shows the energy produced by the utility's program AEP facilities in Iowa (whether contracted, leased, or owned), not including AEP facilities for which the utility has sought cost recovery under 199—20.9(476) prior to July 1, 2001, is sufficient to meet the requirement of the utility's Iowa alternate energy purchase program.

e. A description of program marketing and customer information activities, including schedules and copies of all marketing and information materials related to the program.

f. Program modifications and uses for any program surplus that are under consideration, including procurement or assignment of additional electricity from AEP facilities.

g. A copy of the utility's annual fuel report to customers under subrule 15.17(5).

15.17(5) Annual fuel reporting requirements for rate-regulated utilities.

a. Each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall annually report to all its Iowa customers its

percentage mix of fuel and energy inputs used to produce electricity. The report shall, to the extent practical, specify percentages of electricity produced by coal, nuclear energy, natural gas, oil, AEP electricity produced for the utility's alternate energy purchase program, non-program AEP electricity, and resources purchased from other companies. The percentages for AEP electricity shall further specify percentages of electricity produced by wind, solar, hydropower, biomass, and other technologies.

b. The report shall include an estimate of sulfur dioxide (SO₂), nitrogen oxide (NO_x), and carbon dioxide (CO₂) emissions for each known fuel and energy input type. The emission estimate shall be expressed in pounds per 1000 kWh.

15.17(6) *Tariff filing requirements for non-rate-regulated utilities.*

a. On or before January 1, 2004, each electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A shall file with the board a tariff for the utility's alternate energy purchase program. Initial tariff filings and any subsequent modifications shall be filed for informational purposes only. Tariff modification filings need only include information about elements of the program that are being modified. The initial tariff filings shall include, as applicable:

- (1) The program tariff;
- (2) The program effective date;
- (3) A sample of the customer notification, including a description of the method of distribution;
- (4) Customer classes eligible for participation;
- (5) Identification of any specific AEP facilities to be included in the program, including: fuel type; nameplate capacity; estimated annual kWh output; estimated in-service date; ownership, including any utility affiliation; location; and, if the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1) "c"; and

(6) Forms and levels of customer contribution available to program participants.

b. Joint filings. An electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A may file its tariff jointly with other non-rate-regulated utilities or through an agent. A joint tariff filing shall contain the information required by paragraph 15.17(6) "a," separately identified for each utility participating in the joint tariff. The information for each utility may be provided by reference to an attached document or to a section of the joint tariff filing. A joint tariff filing filed by an agent shall state the agent's relationship to each utility and include a document from each utility authorizing the agent to act on the utility's behalf.

199—15.18(476B) Certification of eligibility for wind energy tax credits under Iowa Code chapter 476B. Any person applying for certification of eligibility for state tax credits for wind energy pursuant to Iowa Code section 476B.5 as amended by 2005 Iowa Acts, chapter 179, section 166, is subject to this rule.

15.18(1) *Filing requirements.* Any person applying for certification of eligibility for wind energy tax credits must file with the board an application that contains substantially all of the following information:

a. Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner, and a statement attesting that owners meeting the eligibility requirements of Iowa Code section 476B.5 are not owners of more than two eligible renewable energy facilities. In determining whether the two-facility limit is exceeded, the Board will consider not only the legal entity that owns the utility, if other than a natural person, but the equity owners of the legal entity. If the owner of the facility is other than a natural person, information regarding the equity owners must be provided.

c. A description of the facility, including at a minimum the following information:

- (1) Type of facility (that is, a qualified facility as defined in Iowa Code section 476B.1);
- (2) Total nameplate generating capacity rating. For applications filed on or after March 1, 2008, the facility must have a combined nameplate capacity of no less than 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community

college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate capacity of no less than $\frac{3}{4}$ of a megawatt;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service (that is, placed in service on or after July 1, 2005, but before July 1, 2012, for eligibility under Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179).

d. A signed statement from the owner attesting that the owner intends to either sell all the electricity generated by the facility, consume all the electricity on site, or a combination of both. For purposes of this rule, electricity consumed on site means any electricity produced by the facility and not sold.

e. If the owner intends to sell electricity generated by the facility, a copy of the executed power purchase agreement or other agreement to purchase electricity. If the power purchase agreement has not yet been finalized and executed, the board will accept as an other agreement an executed agreement signed by at least two parties that includes both a commitment to purchase electricity from the facility upon completion of the project and most of the essential elements of a contract.

The board will also accept a copy of an executed interconnection agreement service agreement, in lieu of a power purchase agreement, if the facility owner has instead agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

f. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179 (1 cent per kWh, wind energy only tax credits).

15.18(2) *Review and notification.* Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code section 476B.5. In the absence of a timely appeal, the preliminary determination shall be final.

15.18(3) *Incomplete application and additional information.* If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

15.18(4) *Loss of eligibility status.* Within 18 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 18 months of board approval, the facility will lose eligibility status.

However, if the facility is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the filing requirement, attesting to the unavailability of necessary equipment. After granting a 12-month extension, if the board determines that the facility was not operational within 30 months of board approval, the facility will lose eligibility status. Otherwise, the facility may reapply to the board for new eligibility.

15.18(5) *Allocation of capacity among eligible applicants.* Iowa Code section 476B.5 establishes the maximum amount of nameplate generating capacity of facilities eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation

unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with subrule 15.18(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

15.18(6) *Waiting list for excess applications.* The board will maintain a waiting list of excess eligibility applications for facilities that might have received preliminary eligibility under subrule 15.18(2), but for the maximum capacity and capability restrictions under subrule 15.18(5). The priorities of the waiting list will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under subrule 15.18(5), the board will review the applications on the waiting list based on their priorities, before reviewing new applications. Applications will be removed from the waiting list after they are either approved or denied. Beginning August 31, 2007, each applicant on the waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code chapter 476B.
[ARC 8060B, IAB 8/26/09, effective 9/30/09]

199—15.19(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C. Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code section 476C.3 is subject to this rule.

15.19(1) *Filing requirements.* Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the board an application that contains substantially all of the following information:

a. Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The "legal status of each owner" refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code section 476.48(1) and 199—15.22(476), or, alternatively, the ownership requirements of Iowa Code section 476C.1(6)"*b*," which provides that an eligible renewable energy facility must be at least 51 percent owned by one or more or any combination of the following:

- (1) A resident of Iowa;
- (2) An authorized farm corporation, authorized limited liability company, or authorized trust, as defined in Iowa Code section 9H.1;
- (3) A family farm corporation, family farm limited liability company, or family farm trust, as defined in Iowa Code section 9H.1;
- (4) A revocable trust as defined in Iowa Code section 9H.1;
- (5) A testamentary trust as defined in Iowa Code section 9H.1;
- (6) A small business as defined in Iowa Code section 15.102;
- (7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499;
- (8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or
- (9) A school district located in Iowa.

c. A statement attesting that each owner meeting the eligibility requirements of Iowa Code section 476C.1(6)"*b*" does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility, or refuse conversion facility, as defined in Iowa Code section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code section 476C.1. For applications filed on or after July 1, 2011, the facility’s combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a megawatt if all or part of the facility’s renewable energy production is used for the owners’ on-site consumption, and no more than 60 megawatts if the facility is not a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2015, for eligibility under Iowa Code chapter 476C; and

(5) For eligibility under Iowa Code chapter 476C, demonstration that the facility’s combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent (as defined in Iowa Code section 476C.1(7)), divided by the number of separate owners meeting the requirements of Iowa Code chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or use all the renewable energy through a combination of sale and consumption. For purposes of the signed statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

h. If the owners intend to sell renewable energy produced by the facility, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

i. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

15.19(2) Review and notification. Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code section 476C.3(2). In the absence of a timely appeal, the preliminary determination shall be final.

15.19(3) Incomplete application and additional information. If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

15.19(4) Loss of eligibility status.

a. Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status.

b. If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the board determines that the facility was not operational within 42 months of board approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.19(4)“a” and “b,” the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the board. Upon the board’s receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the applicant may reapply to the board for new eligibility.

15.19(5) Allocation of capacity among eligible applicants. Iowa Code section 476C.3(4) establishes the maximum amounts of nameplate generating capacities and energy production capacity equivalents eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with subrule 15.19(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

15.19(6) Waiting lists for excess applications. The board will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under subrule 15.19(2), but for the maximum capacity and capability restrictions under subrule 15.19(5). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under subrule 15.19(5), the board will review the applications on the waiting lists based on their priorities, before reviewing new applications. Applications will be removed from the waiting lists after they are either approved or denied. Beginning August 31, 2007, each applicant on a waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant’s eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code chapter 476C.

[**ARC 8060B**, IAB 8/26/09, effective 9/30/09; **ARC 8949B**, IAB 7/28/10, effective 9/1/10; **ARC 9752B**, IAB 9/21/11, effective 10/26/11]

199—15.20(476B) Applications for wind energy tax credits under Iowa Code chapter 476B. The wind energy tax credits equal one cent per kilowatt-hour of electricity generated by eligible wind energy facilities under 199—15.18(476B), which is sold or used for on-site consumption by the owner, for tax years beginning on or after July 1, 2006. The owners of an eligible facility may apply for wind energy tax credits for up to ten tax years following the date the facility is placed in service. Wind energy tax credits will not be issued for wind energy sold or used for on-site consumption after June 30, 2022. For

purposes of this rule, wind energy used for on-site consumption means any electricity produced by an eligible facility and not sold.

For the first tax year for which tax credits can be claimed, the kilowatt-hours generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credits for the 2007 tax year can include energy produced and purchased between April 1, 2006, and December 31, 2007.

15.20(1) *Application process for wind energy tax credits.* A wind energy facility must be approved as eligible by the board under 199—15.18(476B) in order to qualify for wind energy tax credits.

If the facility is located in a city or county neither of which has enacted an ordinance under Iowa Code section 427B.26, or if the facility is not eligible for special valuation pursuant to an ordinance adopted by the city or county under Iowa Code section 427B.26, the wind energy facility must also be approved by the city council or county board of supervisors of the city or county in which the facility is located, in accordance with Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4. Once the owners receive approval from their city council or county board of supervisors, additional approval from the city council or county board of supervisors is not required for subsequent tax years.

Tax credit applications for eligible facilities must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications must be filed in paper format and are not subject to the electronic filing requirements of 199—14.2(17A,476). The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199—paragraph 1.9(5)“c”) and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199—subparagraph 1.9(8)“b”(3). Accordingly, the applicant should mark each of the pages of the tax credit application “CONFIDENTIAL” in bold or large letters.

a. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199—15.20(476B)), and the following 13 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199—15.18(476B), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under 199—15.18(476B).

(3) Either a copy of the city council's or county board of supervisors' approval, from the city or county in which the facility is located, issued pursuant to Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4; or a statement explaining why such approval is not required under Iowa Code section 476B.6(1) as amended by 2009 Iowa Acts, Senate File 456, section 4.

(4) A statement attesting that neither the owners nor the purchaser have received renewable energy tax credits for the facility under 199—15.21(476C).

(5) For any electricity sold, a copy of the executed power purchase agreement or other agreement to purchase electricity. Alternatively, a copy of an executed interconnection agreement or transmission service agreement is acceptable if the owners have elected to sell electricity from the facility directly or indirectly to a wholesale power pool market.

(6) For any electricity sold, the owner must provide a statement attesting that the electricity for which tax credits are sought has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the wind energy tax credits, the definition of “related person” is the same as specified in department of revenue 701—subrules 42.25(2) and 52.26(2). That is, the definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a

member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

For any electricity used for on-site consumption, the owner must provide a signed statement attesting under penalty of perjury that the electricity for which tax credits are sought was generated by the eligible facility and not sold.

(7) The date that the eligible facility was placed in service (that is, between July 1, 2005, and July 1, 2012).

(8) The total number of kilowatt-hours of electricity generated by the facility during the tax year.

(9) For any electricity sold, invoices or other information that documents the number of kilowatt-hours of electricity generated by the eligible facility and sold to an unrelated purchaser during the tax year.

For any electricity used for on-site consumption, the number of kilowatt-hours of electricity generated by the eligible facility during the tax year and not sold.

(10) Information regarding the facility owners, including the name, address, and tax identification number of each owner, and the percentage of equity interest held by each owner during the period for which wind energy tax credits will be sought under Iowa Code chapter 476B as amended by 2009 Iowa Acts, Senate File 456. If an owner is other than a natural person, information regarding the equity owners must also be provided. This information shall be consistent with information provided in the original application for facility eligibility, as amended, under 199—15.18(476B).

(11) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(12) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(13) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity, for each of the partners, members, shareholders, or beneficiaries of the entity. The wind energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company, to receive the wind energy tax credits issued under Iowa Code chapter 476B as amended by 2009 Iowa Acts, Senate File 456, and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof, of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the wind energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

b. The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

(1) The completeness of the application.

(2) The facility's eligibility status under 199—15.18(476B).

(3) Whether the reported kilowatt-hours of electricity generated by the facility and sold or used by the owner for on-site consumption during the tax year seem accurate and eligible for wind energy tax credits.

15.20(2) *Review process and computation of wind energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue wind energy tax credit certificates to the facility owners, in accordance with department of revenue requirements and procedures under rules 701—42.25(422,476B), 701—52.26(422,476B), and 701—58.15(422,476B).

[ARC 8060B, IAB 8/26/09, effective 9/30/09]

199—15.21(476C) **Applications for renewable energy tax credits under Iowa Code chapter 476C.** The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose, generated by eligible renewable energy facilities under 199—15.19(476C), which is sold or used for on-site consumption by the owners, for tax years beginning on or after July 1, 2006. For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy sold or used for on-site consumption after December 31, 2024. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

For the first tax year for which tax credits can be claimed, the kilowatt-hours, standard cubic feet, or British thermal units generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include renewable energy produced and purchased between April 1, 2006, and December 31, 2007.

15.21(1) *Application process for renewable energy tax credits.* A renewable energy facility must be approved as eligible by the board under 199—15.19(476C) in order to qualify for renewable energy tax credits. Tax credit applications must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications must be filed in paper format and are not subject to the electronic filing requirements of 199—14.2(17A,476). The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199—paragraph 1.9(5)“c”) and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199—subparagraph 1.9(8)“b”(3). Accordingly, the applicant should mark each of the pages of the tax credit application “CONFIDENTIAL” in bold or large letters.

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits related to renewable energy that is sold, as designated under paragraph 15.19(1)“h.” Only facility owners shall be eligible to apply for tax credits related to renewable energy used for on-site consumption. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199—15.21(476C)), and the following 12 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199—15.19(476C), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under 199—15.19(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under 199—15.20(476B).

(4) For any renewable energy sold, a copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under paragraph 15.19(1) "h."

(5) For any renewable energy sold, the owners must provide a statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person. For any renewable energy used for on-site consumption, the owners must provide a signed statement attesting under penalty of perjury that the claimed amount of electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose for which tax credits are sought has been generated by the eligible facility and not sold.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2015).

(7) The total number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) For any renewable energy sold, invoices or other information that documents the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year. For any renewable energy used for on-site consumption, the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year and not sold.

(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under 199—15.19(476C).

(10) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(11) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(12) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity for each of the partners, members, shareholders, or beneficiaries of the entity. The renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is

a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company to receive the renewable energy tax credits issued under Iowa Code chapter 476C and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

b. The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

- (1) The completeness of the application.
- (2) The facility's eligibility status under 199—15.19(476C).
- (3) Whether the reported kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the facility and sold or used by the owners for on-site consumption during the tax year seem accurate and eligible for renewable energy tax credits.

15.21(2) *Review process and computation of renewable energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue renewable energy tax credit certificates to the facility owners or designated purchaser, in accordance with department of revenue requirements and procedures under 701—42.26(422,476C), 701—52.27(422,476C), and 701—58.16(422,476C).

[ARC 8060B, IAB 8/26/09, effective 9/30/09; ARC 9752B, IAB 9/21/11, effective 10/26/11]

199—15.22(476) Small wind innovation zones.

15.22(1) *Definitions.* For purposes of this rule:

“*Electric utility*” means a public utility that furnishes electricity to the public for compensation.

“*Model interconnection agreement*” means the applicable standard interconnection agreement under 199—Chapter 45.

“*Model ordinance*” means the model ordinance developed pursuant to Iowa Code section 476.48(3), which when adopted will be posted on the Web sites of the Iowa League of Cities at www.iowaleague.org and the Iowa State Association of Counties at www.iowacounties.org.

“*Small wind energy system*” means a wind energy conversion system that collects and converts wind into energy to generate electricity, which has a nameplate generating capacity of 100 kilowatts or less. A small wind energy system located in a small wind innovation zone but in the exclusive service territory of an electric utility that is not subject to 199—Chapter 45 and has not adopted the standard forms, procedures, and interconnection agreements in 199—Chapter 45 is not eligible for the streamlined application process referred to in Iowa Code section 476.48(2) “*a.*”

“*Small wind innovation zone*” means a political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the model ordinance.

15.22(2) *Application for small wind innovation zone designation.* A political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council, may apply to the board for designation as a small wind innovation zone under Iowa Code section 476.48. The application must include the following information:

- a. The name, location, description, and legal boundary of the political subdivision seeking designation as a small wind innovation zone;
- b. Contact information for the applicant filing on behalf of the political subdivision, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;
- c. If the political subdivision is other than a local government:
 - (1) Identification of the local government (or governments) that encompasses the political subdivision;
 - (2) Confirmation that all identified local governments have either adopted or are about to adopt the model ordinance, including copies of model ordinances adopted by the local governments, or copies of pending amendments to existing zoning ordinances intended to comply with the model ordinance; and
 - (3) Dates the model ordinances were adopted or anticipated dates of adoption of pending amendments to existing zoning ordinances intended to comply with the model ordinance;
- d. If the political subdivision is a local government:
 - (1) A copy of the model ordinance adopted by the local government or copy of a pending amendment to an existing zoning ordinance intended to comply with the model ordinance; and
 - (2) Date the model ordinance was adopted or anticipated date of adoption of the pending amendment to an existing zoning ordinance intended to comply with the model ordinance;
- e. Identification of the electric utilities that provide service within the political subdivision; and
- f. Documentation from each electric utility that provides service within the political subdivision confirming that the electric utility is serving the political subdivision and that the utility is either:
 - (1) A utility subject to the provisions of 199—Chapter 45; or
 - (2) A utility not subject to the provisions of 199—Chapter 45, but which nonetheless agrees to use the standard forms, procedures, and standard interconnection agreements of 199—Chapter 45 for small wind energy systems in its service territory within the political subdivision; or
 - (3) A utility that is not subject to the provisions of 199—Chapter 45 and has not adopted them.

NOTE: Electric utilities shall provide political subdivisions the documentation required in paragraph 15.22(2)“f.”

15.22(3) Motion for modification of a model interconnection agreement in a small wind innovation zone. An electric utility that uses the standard interconnection agreements in 199—Chapter 45 and the owner of a small wind energy system in a small wind innovation zone may jointly seek to modify their version of the model interconnection agreement by jointly filing a motion for board approval. The motion must include the following information:

- a. The name, location, and description of the political subdivision designated as a small wind innovation zone;
- b. The interconnecting electric utility;
- c. Information regarding the owner of the small wind energy system, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;
- d. Description of the small wind energy system, including location and nameplate generating capacity;
- e. A copy of the modified interconnection agreement clearly identifying the proposed modifications;
- f. A description of the reasons and circumstances that require the modifications; and
- g. Signed statements from the electric utility and the owner of the small wind energy system attesting that the proposed modifications to the interconnection agreement are mutually agreeable.

15.22(4) Annual reporting requirement. A current listing of small wind innovation zones shall be maintained on the board’s Web site at www.state.ia.us/iub. Beginning April 1, 2011, each electric utility that has one or more small wind innovation zones in its service territory shall file an annual report for the previous calendar year listing the nameplate kW capacity of each small wind energy system that was interconnected (or previously interconnected) with the utility and produced electricity in each of the

small wind innovation zones served by the utility. The information shall be provided in the following format:

Small Wind Innovation Zone	Customer Name	Nameplate kW Capacity
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[ARC 8949B, IAB 7/28/10, effective 9/1/10]

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

[Filed 3/26/81, Notice 10/29/80—published 4/15/81, effective 5/20/81]

[Filed emergency 6/28/82—published 7/21/82, effective 6/28/82]

[Filed 7/27/84, Notice 4/25/84—published 8/15/84, effective 9/19/84]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed emergency 9/4/87—published 9/23/87, effective 9/4/87]

[Filed 4/25/91, Notice 12/26/90—published 5/15/91, effective 6/19/91]

[Filed 6/4/93, Notice 1/20/93—published 6/23/93, effective 7/28/93]

[Filed 10/20/94, Notice 6/22/94—published 11/9/94, effective 12/14/94]

[Filed 10/12/00, Notice 8/23/00—published 11/1/00, effective 12/6/00]

[Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]

[Filed 7/3/03, Notice 3/5/03—published 7/23/03, effective 8/27/03]

[Filed 8/29/03, Notice 5/14/03—published 9/17/03, effective 10/22/02]

[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]

[Filed emergency 6/20/05—published 7/20/05, effective 6/20/05]

[Filed 1/26/06, Notice 7/20/05—published 2/15/06, effective 3/22/06]

[Filed 11/28/06, Notice 9/27/06—published 12/20/06, effective 1/24/07]

[Filed 5/2/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 7/31/08, Notice 6/18/08—published 8/27/08, effective 10/1/08]

[Filed ARC 8060B (Notice ARC 7849B, IAB 6/17/09), IAB 8/26/09, effective 9/30/09]

[Filed ARC 8859B (Notice ARC 8201B, IAB 10/7/09), IAB 6/16/10, effective 7/21/10]

[Filed ARC 8949B (Notice ARC 8335B, IAB 12/2/09), IAB 7/28/10, effective 9/1/10]

[Filed ARC 9752B (Notice ARC 9609B, IAB 7/13/11), IAB 9/21/11, effective 10/26/11]

[Filed ARC 0781C (Notice ARC 0455C, IAB 11/14/12), IAB 6/12/13, effective 7/17/13]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

CHAPTER 19
SERVICE SUPPLIED BY GAS UTILITIES
[Prior to 10/8/86, Commerce Commission [250]]

199—19.1(476) General information.

19.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, contents and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 479 provides that the Iowa utilities board shall have full authority and power to promulgate rules as it deems proper and expedient in the supervision of the transportation or transmission and underground storage of gas within the state of Iowa.

The application of the rules in this chapter to municipally owned utilities furnishing gas is limited by Iowa Code section 476.1B.

19.1(2) *Application of rules.* The rules shall apply to any gas utility operating within the state of Iowa as defined in Iowa Code chapter 476 and shall supersede any tariff on file with this board which is in conflict with these rules. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with rule 199—1.3(17A,474,476,78GA,HF2206). The adoption of these rules shall in no way preclude the board from altering or amending them, pursuant to statute, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions. These regulations shall in no way relieve any utility from any of its duties under the laws of this state.

19.1(3) *Definitions.* The following words and terms, when used in these rules shall have the meaning indicated below:

The abbreviations used, and their meanings, are as follows:

Btu—British thermal unit

LP-Gas—Liquefied Petroleum Gas

psig—Pounds per Square Inch, Gauge

W.C.—Water Column

“*Appliance*” refers to any device which utilizes gas fuel to produce light, heat or power.

“*Board*” means the Iowa utilities board.

“*Complaint*” as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

“*Cubic foot*” of gas has the following meanings:

1. Where gas is supplied and metered to customers at the pressure (as defined in 19.7(2)) normally used for domestic customers’ appliances, a cubic foot of gas shall be that quantity of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in (1) above, the utility shall specify in its rules the base for measurement of a cubic foot of gas (see 19.2(4) “*c*”(6)). Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas which, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, which, at a temperature of 60°F and a pressure of 30 inches of mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

“*Customer*” means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the gas service or heat from the gas utility.

“Delinquent” or *“delinquency”* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

“Gas,” unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility.

“Gas plant” means all facilities including all real estate, fixtures and property owned, controlled, operated or managed by a gas utility for the production, storage, transmission and distribution of gas and heat.

“Heating and calorific values.” The following values shall be used:

1. *“British thermal unit”* (Btu) is the quantity of heat that must be added to one avoirdupois pound of pure water to raise its temperature from 58.5°F to 59.5°F under standard pressure.

2. *“Dry calorific value”* of a gas (total or net) is the value of the total or the net calorific value of the gas divided by the volume of dry gas in a standard cubic foot.

NOTE: The amount of dry gas in a standard cubic foot is .9826 cubic foot.

3. *“Net calorific value”* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air, and products of combustion being 60°F and all water formed by the combustion reaction remaining in the vapor state.

NOTE: The net calorific value of a gas is its total calorific value minus the latent heat of evaporation at standard temperature of the water formed by the combustion reaction.

4. *“Therm”* means 100,000 British thermal units.

5. *“Total calorific value”* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air and products of combustion being 60°F and all water formed by the combustion reaction condensed to the liquid state.

“Interruption of service” means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

“Loss factor” as used in rule 199—19.10(476) means test-year purchases less test-year sales. A five-year average of purchases less sales may be used if the test year is determined by the board to be abnormal.

“Main” means a gas pipe, owned, operated, or maintained by a utility, which is used for the purpose of transmission or distribution of gas, but does not include “service line”.

“Meter,” without other qualification, shall mean any device or instrument which is used by a utility in measuring a quantity of gas.

“Meter shop” is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

“Pressure,” unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviation-psig).

“Rate-regulated utility” means any utility as defined in the definition of “utility” below which is subject to rate regulation provided for in Iowa Code chapter 476.

“Service line” means a distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer’s piping, whichever is farther downstream, or the connection to a customer’s piping if there is not a customer meter. A customer meter is the meter that measures the transfer of gas from a utility to a customer.

“Tap” or *“town border station”* means the delivery point or measuring station at which a gas distribution utility receives gas from a natural gas transmission company.

“Tariff” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by a gas utility in fulfilling its role of furnishing gas service.

“Timely payment” is a payment on a customer’s account made on or before the date shown on a current bill for service or on a form which records an agreement between the customer and a utility for

a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“Utility” means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

199—19.2(476) Records, reports, and tariffs.

19.2(1) Location and retention of records. Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of Chapter 18 of the board’s rules, Utility Records.

19.2(2) Tariffs to be filed with the board. The schedules of rates and rules of rate-regulated gas utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board’s duties upon request to do so by the board.

19.2(3) Form and identification. All tariffs shall conform to the following rules:

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words, “Gas Tariff Filed with Board” shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)

Gas Tariff

Filed with

Iowa Utilities Board

(date)

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced, for example:

Tariff No. _____

Supersedes Tariff No. _____

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly identify the part eliminated.

(4) Any tariff modifications as defined in “3” above replacing tariff sheets shall be marked in the right margin with symbols as herein described to indicate the place, nature and extent of the change in text.

<i>Symbol</i>	<i>Meaning</i>
(C)	A change in regulation
(D)	A discontinued rate, treatment or regulation
(I)	An increased rate or new treatment resulting in increased rate
(N)	A new rate, treatment or regulation
(R)	A reduced rate or new treatment resulting in a reduced rate
(T)	A change in text but no change in rate, treatment or regulation

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words “Filed with Board.” If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Gas Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board.

The utility may propose an effective date.

19.2(4) Content of tariffs. A tariff filed with the board shall contain:

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet number of the first page of each section.

b. All rates of utilities subject to rate regulation for service with indication of each rate for the type of gas and the class of customers to which each rate applies. There shall also be shown the prices per unit of service, the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including the method of calculating or estimating loads or minimums, delivery pressure, and any special terms or conditions applicable. All rates should be separated into “gas” and “nongas” components, and books and records shall be maintained on this basis. Books and records shall be available to the board for audits upon request. The gas components will be the result of the utility’s periodic review of gas procurement practices rule (199—19.11(476)) and PGA (rule 199—19.10(476)) proceeding. The nongas components will be established through rate case proceedings under Iowa Code section 476.3 or 476.6. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

Customer charges for all special services relating to providing the basic utility service including, but not limited to, reconnect charge and different categories of service calls shall be specified.

c. A copy of the utility’s rules, or terms and conditions, describing the utility’s policies and practices in rendering service shall include:

(1) A statement as to the equivalent total heating value of the gas in Btu’s per cubic foot on which their customers are billed. If necessary, this may be listed by district, division or community.

(2) The list of the items which the utility furnishes, owns, and maintains on the customer’s premises, such as service pipe, meters, regulators, vents and shut-off valves.

- (3) General statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.
- (4) General statement of the utility's policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.
- (5) A statement indicating the minimum number of days allowed for payment after the due date of the customer's bill before service will be discontinued for nonpayment.
- (6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.
- (7) Forms of standard contracts required of customers for the various types of service available.
- (8) All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.
- (9) A copy of each type of customer bill.
- (10) Definitions of classes of customer.
- (11) Rules for extending service in accordance with 19.3(10).
- (12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.
- (13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.
- (14) Rules governing disconnecting and reconnecting service.
- (15) Notice required from customer for having service discontinued.
- (16) Rules covering temporary, emergency, auxiliary, and stand-by service.
- (17) Rules shall show any limitations on loads and cover the type of equipment which may or may not be connected.
- (18) Rate-regulated utilities shall include a list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.
- (19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.
- (20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.
- (21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.
- (22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

19.2(5) Annual, periodic and other reports to be filed with the board.

- a. *System map verification.* A utility shall file annually with the board a verification that it has a correct set of utility system maps for each operating or distribution area. The maps shall show:
 - (1) Peak shaving facilities location.
 - (2) Feeder and distribution mains indicating size and pressure.
 - (3) System metering (town border stations and other supply points).
 - (4) Regulator stations in system indicating inlet and outlet pressures.
 - (5) Calorimeter location.
 - (6) State boundary crossing.
 - (7) Franchise area.
 - (8) Names of all communities (post offices) served.
- b. *Incident reports.* Rescinded IAB 1/30/08, effective 3/5/08.
- c. *Construction programs.* Rescinded IAB 11/19/97, effective 12/24/97.
- d. *Reports of gas service.* Each utility shall compile a monthly record of gas service. The record shall be completed within 30 days after the end of the month covered. The compilation is to be kept

available, for inspection by the board or its staff, at the utility's principal office within the state of Iowa. Such record shall contain:

- (1) The daily and monthly average of total heating values of gas in accordance with 19.7(6).
- (2) The monthly acquisition and disposition of gas.
- (3) Interruptions of service occurring during the month in accordance with 19.7(7). If there were no interruptions, then it should be so stated.
- (4) The number of customer pressure investigations made and the results.
- (5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.
- (6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.
- (7) Number of district regulators checked and nature of repairs required.
- (8) Number of house regulators checked and nature of repairs required.
- (9) Description of any unusual operating difficulties.
- (10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

A summary of the 12 monthly gas service records for each calendar year shall be attached to and submitted with the utility's annual fiscal plant and statistical report to the board.

e. Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

f. Filing customer bill forms. A copy of each type of customer bill form in current use shall be filed with the board.

g. Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through April 9, 2014, shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

h. Change in rate. A notification to the board shall be made of any planned change in rate of service by a utility even though the change in rate of service is provided for in its tariff filing with the board. This information shall reflect the amount of increase or decrease and the effective date of application. An up-to-date tariff sheet shall be supplied to the Iowa utilities board for its copy of the tariff showing the current rates.

i. List of persons authorized to receive board inquiries. Each utility shall file with the board in the annual report required by 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) pipeline permits (gas). Each utility shall file with the board a telephone contact number or numbers where the board can obtain current information 24 hours a day about incidents and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

j. Residential customer statistics. Each rate-regulated gas utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

- (1) Number of accounts;
- (2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
- (3) Number of accounts past due;
- (4) Number of accounts eligible for energy assistance and past due;
- (5) Total revenue owed on accounts past due;
- (6) Total revenue owed on accounts eligible for energy assistance and past due;
- (7) Number of disconnection notices issued;
- (8) Number of disconnection notices issued on accounts eligible for energy assistance;

- (9) Number of disconnections for nonpayment;
- (10) Number of reconnections;
- (11) Number of accounts determined uncollectible; and
- (12) Number of accounts eligible for energy assistance and determined uncollectible.

k. Monthly, periodic and annual reports. Each utility shall file such other monthly, periodic and annual reports as are requested by the board. Monthly and periodic reports shall be due in the board's office within 30 days after the end of the reporting period. All annual reports shall be filed with this board by April 1 of each year for the preceding calendar year.

This rule is intended to implement Iowa Code section 476.2.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—19.3(476) General service requirements.

19.3(1) Disposition of gas. The meter and any service line pressure regulator shall be owned by the utility. The utility shall place a visible seal on all meters and service line regulators in customer use, such that the seal must be broken to gain entry.

a. All gas sold by a utility shall be on the basis of meter measurement except:

- (1) Where the consumption of gas may be readily computed without metering; or
- (2) For temporary service installations.

b. The amount of all gas delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

- (1) Where gas is used in centralized heating, cooling or water-heating systems;
- (2) Where a facility is designated for elderly or handicapped persons;
- (3) Where submetering or resale of service was permitted prior to 1966; or
- (4) Where individual metering is impractical. “Impractical” means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 19.3(1)“*b*” have been met.

d. For purposes of this subrule, a “master meter” means a single meter used in determining the amount of natural gas provided to a multioccupancy building or multiple buildings.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

f. All gas consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering or where metering is impractical.

19.3(2) Condition of meter. Rescinded IAB 11/12/03, effective 12/17/03. See 199 IAC 19.6(7).

19.3(3) Meter reading records. The meter reading records shall show:

- a.* Customer's name, address, rate schedule, or identification of rate schedule.
- b.* Identifying number or description of the meter(s).
- c.* Meter readings.
- d.* If the reading has been estimated.
- e.* Any applicable multiplier or constant, or reference thereto.

19.3(4) Meter charts. All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer's name and location and the chart multiplier.

19.3(5) Meter register. If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Where remote meter reading is used, whether outdoor on-premises or off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them.

19.3(6) Prepayment meters. Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under such special rate schedule as may be filed under 19.2(4).

19.3(7) Meter reading and billing interval. Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without an exemption from the board. A waiver request must include the information required by 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a large volume customer after the initial month, that customer's bill shall be rendered monthly for the next 12 months, unless prior approval is received from the board for a shorter interval. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. The utility rules may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check electronic meter readings, a utility representative shall physically read the meter at least once every 12 months.

19.3(8) Readings and estimates. When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

When access to meters cannot be gained, the utility may leave with the customer a meter reading form. The customer may provide the meter reading by telephone, electronic mail (if it is allowed by the utility), or by mail. If the meter reading information is not returned in time for the billing operation, an estimated bill may be rendered. If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

The utility shall incorporate normalized weather data in its calculation of an estimated bill.

Utilities shall file with the board their procedures for calculating estimated bills, including their procedures for determining the reasonable degree-day data to use in the calculations. Utilities shall inform the board when changes are made to the procedures for calculating estimated bills.

19.3(9) Temporary service. When the utility renders a temporary service to a customer it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

19.3(10) Plant additions, distribution main extensions, and service lines.

a. Definitions. The following definitions shall apply to the terms as used in this subrule.

"Advance for construction," as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount

for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Agreed-upon attachment period,” as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

“Contribution in aid of construction,” as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a distribution main extension or service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Distribution main extension,” as used in this subrule, means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

“Estimated annual revenues,” as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

“Estimated base revenues,” as used in this subrule, shall be calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

“Estimated construction costs,” as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the distribution main extension or service line; size, location, and characteristics of the distribution main extension or service line, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

“Plant addition,” as used in this subrule, means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

“Service line,” as used in this subrule, means the piping that extends from the distribution main to the meter set riser.

“Similarly situated customer,” as used in this subrule, means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

“Utility,” as used in this subrule, means a rate-regulated utility.

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction by the customer to make plant additions shall be available for board inspection.

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction if the estimated construction costs to provide a distribution main extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the distribution main extension would

otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension exceeds the total estimated construction cost to provide the distribution main extension, the entire amount of the advance for construction shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension is less than the total estimated construction cost to provide the distribution main extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the distribution main extension.

3. In no event shall the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct a service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the service line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall be required to provide a nonrefundable contribution in aid of construction, within 30 days after completion, for that portion of the service line on private property, exclusive of the riser, in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$\text{(Estimated Construction Costs)} \times \frac{\text{(Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. Extensions not required. Utilities shall not be required to make distribution main extensions or attach service lines as described in this subrule, unless the distribution main extension or service line shall be of a permanent nature.

f. Different payment arrangement. This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

19.3(11) Cooperation and advance notice. In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

a. Every utility shall give to other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity, provided, however, that the requirements of this chapter shall not apply to routine extensions or minor changes in the local underground distribution facilities.

b. Every utility shall assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

This rule is intended to implement 42 U.S.C.A. §8372, 10 CFR 516.30, and Iowa Code section 476.8. [ARC 7584B, IAB 2/25/09, effective 4/1/09]

199—19.4(476) Customer relations.

19.4(1) Customer information. Each utility shall:

a. Maintain up-to-date maps, plans or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area.

b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. (199—7.4(476))

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

- e.* Upon request, inform its customers as to the method of reading meters.
- f.* State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.
- g.* Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.
- h.* Furnish such additional information as the customer may reasonably request.
- i.* Promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321 or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other natural gas utilities. Any utility which does not use the standard statement described in this paragraph shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

19.4(2) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

19.4(3) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute

interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

19.4(4) *Customer deposit records.* Each utility shall keep records to show:

- a. The name and address of each depositor.
- b. The amount and date of the deposit.
- c. Each transaction concerning the deposit.

19.4(5) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

19.4(6) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment), unless the utility is entitled to require a new or additional deposit. For refund purposes, the account shall be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the exemption provided by subrule 19.3(7), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

19.4(7) *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

19.4(8) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, the following:

- a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.
- b. The dates on which the meter was read at the beginning and end of the billing period.
- c. The number and kind of units metered.
- d. The applicable rate schedule or identification of the applicable rate schedule.
- e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.
- f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.
- g. A distinct marking to identify an estimated bill.
- h. A distinct marking to identify a minimum bill.
- i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

19.4(9) *Customer billing information alternate.* A utility serving fewer than 5000 gas customers may provide the information in 19.4(8) on bill form or otherwise. If the utility elects not to provide the information of 19.4(8) on the bill form, it shall advise the customer, on the bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

19.4(10) *Payment agreements.*

- a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and

is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed

to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

19.4(11) Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(7) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

- (1) Be offered to each eligible customer when the customer initially requests service.
- (2) Allow for entry into the level payment plan anytime during the calendar year.
- (3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

- (4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)"e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

19.4(12) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 19.4(13) but not less than three years.

19.4(13) Adjustment of bills. Bills which are incorrect due to billing errors or faulty metering installation are to be adjusted as follows:

a. Fast metering. Whenever a metering installation is tested and found to have overregistered more than 2 percent, the utility shall recalculate the bills for service.

(1) The bills for service shall be recalculated from the time at which the error first developed or occurred if that time can be definitely determined.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

(3) If the recalculated bills indicate that \$5 or more is due an existing customer or \$10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

b. Slow metering. Whenever a meter is found to be more than 2 percent slow, the tariff may provide for back billing the customer for the amount the test indicates has been undercharged for the period of inaccuracy.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, the tariff may provide for use of the registration of check metering installation, if any, or for estimating the quantity consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed.

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

(2) The period for back billing shall not exceed the last six months the meter was in service unless otherwise ordered by the board.

(3) Back billings shall be rendered no later than six months following the date of the metering installation test.

c. Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustment the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

d. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

19.4(14) Credits and explanations. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

19.4(15) Refusal or disconnection of service. A utility shall refuse service or disconnect service to a customer, as defined in subrule 19.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15) "b." The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(7) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

- (1) In the event of a condition determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
- (4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

- (1) For violation of or noncompliance with the utility's rules on file with the board.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

- (3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

- (1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal;

- (2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently

than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.
- d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day

prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)“d”(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)“d.”

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period

that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15) "f."

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(10) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 19.4(10) "c"(1)"4," provided the utility complies with the provisions of paragraph 19.4(15) "d."

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

19.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

- a.* Delinquency in payment for service by a previous occupant of the premises to be served.
- b.* Failure to pay for merchandise purchased from the utility.
- c.* Failure to pay for a different type or class of public utility service.
- d.* Failure to pay the bill of another customer as guarantor thereof.
- e.* Failure to pay the back bill rendered in accordance with paragraph 19.4(13) "b" (slow meters).
- f.* Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13) "e."
- g.* Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.
- h.* Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

19.4(17) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

19.4(18) *Change in character of service.* The following shall apply to a material change in the character of gas service:

a. *Changes under the control of the utility.* The utility shall make such changes only with the approval of the board, and after adequate notice to the customers (see 19.7(6) "a").

b. Changes not under control of the utility or customer. The utility shall adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (see 19.7(6)“b”).

c. Appliance adjustment charge. The utility shall make any necessary adjustments to the customer’s appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

19.4(19) Customer complaints. Each utility shall investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to safety, service, or rates, and the operation of its system as will enable it to review and analyze its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.
[ARC 9101B, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

199—19.5(476) Engineering practice.

19.5(1) Requirement for good engineering practice. The gas plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through April 9, 2014.

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through April 9, 2014.

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” as amended through April 9, 2014.

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through April 9, 2014.

(5) ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”

(6) NFPA 59-2008, “Utility LP-Gas Plant Code.”

(7) At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2012, “National Fuel Gas Code.”

(2) NFPA 501A-2013, “Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

19.5(3) Adequacy of gas supply. The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

19.5(4) Gas transmission and distribution facilities. The utility’s gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Each utility shall be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the board will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

19.5(5) *Inspection of gas plant.* Each utility shall adopt a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—19.6(476) Metering.

19.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The board considers the publications listed in 19.6(3) to be representative of accepted good practice. Each utility shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

19.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

- a. Classification of meters by capacity, type, and any other factor considered pertinent.
- b. Checking of new meters for acceptable accuracy before being placed in service.
- c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.
- d. Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e. Leak testing of meters before return to service.
- f. The limits of meter accuracy considered acceptable by the utility.
- g. The nature of meter and meter test records maintained by the utility.

19.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

- a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000.
- b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000.
- c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000.
- d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2008).
- e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

19.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

19.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer \$25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

19.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit in the form of a check or money order made payable to the utility.

Within 5 days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 19.4(13). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

19.6(7) Condition of meter. No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with 19.6(2) “b,” “c,” and “e,” shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

199—19.7(476) Standards of quality of service.

19.7(1) Purity requirements. All gas supplied to customers shall be substantially free of impurities which may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner.

19.7(2) Pressure limits. The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

19.7(3) Adequacy for pressure. Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

19.7(4) Standards for pressure measurements.

a. Secondary standards. Each utility shall own or have access to a dead weight tester. This instrument must be maintained in an accurate condition.

b. Working standards. Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility’s system. Working standards must be checked periodically by comparison with a secondary standard.

19.7(5) Handling of standards. Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

19.7(6) Heating value.

a. Awareness. Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. Natural and LP-gas. The heating value of natural gas and undiluted, commercially pure LP-gas shall be considered as being not under the control of the utility. The utility shall determine the allowable range of monthly average heating values within which its customers’ appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers’ appliances must be readjusted in accordance with 19.4(18) “c.”

c. Peak shaving or other mixed gas. The heating value of gas in a distribution system which includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, shall be considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

d. Heating value determination and records. Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, the utility shall provide and maintain equipment, or shall have a method of computation, by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations and shall be subject to review by the board.

19.7(7) Interruptions of service.

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Each utility shall maintain records for not less than two years of interruptions of service as required to be reported in 19.17(1) and shall periodically review these records to determine steps to be taken to prevent recurrence.

b. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

199—19.8(476) Safety.

19.8(1) Acceptable standards. As criteria of accepted good safety practice the board will use the applicable provisions of the standard listed in 19.5(2).

19.8(2) Protective measures. Each utility shall exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size and type of its operations. The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents. Each utility shall maintain a summary of all reportable accidents arising from its operations.

19.8(3) Turning on gas. Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref. Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-2009).

19.8(4) Gas leaks. A report of a gas leak shall be considered as an emergency requiring immediate attention.

19.8(5) Odorization. Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Suitable tests must be made to determine whether the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

19.8(6) Burial near electric lines. Each pipeline shall be installed with at least 12 inches of clearance from buried electrical conductors. If this clearance cannot be maintained, protection from damage or introduction of current from an electrical fault shall be provided by other means.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

199—19.9(476) Energy conservation strategies. Rescinded IAB 11/12/03, effective 12/7/03.

199—19.10(476) Purchased gas adjustment (PGA).

19.10(1) Purchased gas adjustment clause. Purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz) + Rb + E}{S}$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

Unless a utility receives prior board approval to use another methodology, a utility shall use the same weather normalization methodology used in prior approved PGA and rate case.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z which will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

19.10(2) Annual purchased gas adjustment filing. Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors. The utility shall provide an explanation of the calculations of each factor. Information already on file with the board may be incorporated by reference in the filing.

19.10(3) Periodic changes to purchased gas adjustment clause. Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in Rc, Rd, or Rz with concurrent board notification with adequate information to calculate and

support the change. The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

19.10(4) Factor Rb. Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

19.10(5) Take-or-pay adjustment. Rescinded IAB 11/12/03, effective 12/17/03.

19.10(6) Allocations of changes in contract pipeline transportation capacity obligations. Any change in contractual pipeline transportation capacity obligations to transportation or storage service providers serving Iowa must be reported to the board within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

19.10(7) Reconciliation of underbillings and overbillings. The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:

- (1) The type and volume of physical gas being hedged.
- (2) The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).
- (3) A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).
- (4) The date the futures contract or option was purchased or the date the swap was entered into.
- (5) The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.
- (6) The amount of all commissions paid and to whom those payments were made.
- (7) All administrative costs associated with the hedge.
- (8) The name(s) of all marketers used and the amount of money paid to each marketer.
- (9) The amount of savings or costs resulting from the hedge.
- (10) The amount of money tied up in margin accounts for futures trading and the cost of that money.
- (11) The premium paid for each option.
- (12) The strike price of each option.
- (13) The contracting costs for each swap transaction.
- (14) The name of the fixed-price payer in a swap transaction.
- (15) A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.

(16) An explanation as to why the LDC believes the hedge was in the best interest of general system customers.

(17) All invoices, work papers, and internal reports associated with the hedge.

b. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility shall refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

19.10(8) Refunds related to gas costs charged through the PGA. The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund, plus accrued interest, if the refund exceeds \$10 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

- (1) A statement of reason for the refund.
- (2) The amount of the refund with support for the amount.
- (3) The balance of the appropriate refund retention accounts.
- (4) The amount due under each customer classification or grouping.
- (5) The intended period of the refund distribution.
- (6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8) "d."

(7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.

(8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)“d.”

(9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.

(10) The calculations demonstrating that the retained balance is less than \$10 per average residential customer with supporting schedules for all factors used.

c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the “Money Rates” section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check shall be \$5.

This rule is intended to implement Iowa Code section 476.6(11).

199—19.11(476) Periodic review of gas procurement practices [476.6(15)].

19.11(1) Procurement plan. The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility’s natural gas procurement and contracting practices. The board shall provide the utilities 90 days’ notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board’s review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility’s procurement plan shall be organized as follows and shall include:

a. An index of all documents and information filed in the plan and identification of the board files in which documents incorporated by reference are located.

b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and 3-year periods.

c. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

d. A summary of the legal and regulatory actions taken to minimize purchased gas costs.

e. All studies or investigation reports considered in gas purchase contract or arrangement decisions during the plan periods.

f. A complete list of all contracts executed since the last procurement review.

g. A list of other unbundled services available (for example, storage services if offered).

h. A description of the supply options selected and an evaluation of the reasonableness and prudence of its decisions. This evaluation should show the relationship between forecast and procurement.

19.11(2) Gas requirement forecast. Rescinded IAB 4/3/91, effective 3/15/91.

19.11(3) Annual review proceeding. Rescinded IAB 2/9/00, effective 3/15/00.

19.11(4) *Evaluation of the plan.* The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased gas costs. The board will evaluate the reasonableness and prudence of the gas procurement plan.

19.11(5) *Disallowance of costs.* The board shall disallow any purchased gas costs in excess of costs incurred under responsible and prudent policies and practices. The PGA factor shall be adjusted prospectively to reflect the disallowance.

19.11(6) *Executive summary.* On or before August 1, 2003, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. On or before August 1 each year thereafter, each natural gas utility shall file an update of the executive summary and index showing the standard and special contracts in effect on that date for the purchase, sale or interchange of gas. The executive summary shall include the following information:

- a. The contract number;
- b. The start and end date;
- c. The parties to the contract;
- d. The total estimated dollar value of the contract;
- e. A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(15).

199—19.12(476) Flexible rates.

19.12(1) *Purpose.* This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.12(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

19.12(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

19.12(4) Reporting requirements. Each natural gas utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

- (1) The identity of the new customers (by account number, if necessary);
- (2) The value of the discount offered;
- (3) The cost-benefit analysis results;
- (4) The cost of alternate fuels available to the customer, if relevant;
- (5) The volume of gas sold to or transported for the customer in the preceding 12 months; and
- (6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;
- (4) The dollar value of the discount in the last 12 months to each customer, by month;
- (5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and
- (6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The volume of gas sold or transported in the last 12 months to each customer, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and
- (4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

d. No report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

19.12(5) Rate case treatment. In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided at full tariffed rate for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—19.13(476) Transportation service.

19.13(1) Purpose. This subrule requires gas distribution utility companies to transport natural gas owned by an end-user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. System capacity is defined as the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability shall be determined using the total current firm gas flow, including both system and transportation gas.

19.13(2) End-user rights. The end-user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end-user shall have the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes which the end-user is entitled to receive shall be subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category which the end-user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the party is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end-user, adjusted for lost, unaccounted-for, and company-used gas. The credit shall be available at any time, within the conditions of the agreement.

d. The end-user shall be responsible for all costs associated with any additional plant required for providing transportation services to the end-user.

19.13(3) *Transportation service charges.* Transportation service shall be offered to at least the following classes:

- a. Interruptible service with system supply reserve.
- b. Interruptible service without system supply reserve.
- c. Firm service with system supply reserve.
- d. Firm service without system supply reserve.

19.13(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service shall entitle the end-user to return to the system service to the extent of the capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate system capacity. An end-user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end-user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs (including but not limited to gas costs).

c. The utility may require a reconnection charge when an end-user receiving transportation service without system supply reserve service requests to return to the system supply. The end-user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end-user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

e. Small volume transportation service. Rescinded IAB 4/28/04, effective 6/2/04.

f. Optional plan filing. Rescinded IAB 4/28/04, effective 6/2/04.

19.13(5) *Reporting requirements.* A natural gas utility shall file with the board two copies of each transportation contract entered into within 30 days of the date of execution. The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the board staff. The deleted information may be filed with a request for confidentiality, pursuant to 199 Iowa Administrative Code rule 1.9(22).

19.13(6) *Written notice of risks.* The utility must notify its large volume users as defined in 19.14(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

199—19.14(476) Certification of competitive natural gas providers and aggregators.

19.14(1) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

“*Competitive natural gas provider*” or “*CNGP*” means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.
2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section 437A.3(21) “a”(1), in which the municipally owned utility is located.

“*Competitive natural gas services*” means natural gas sold at retail in this state excluding the sale of natural gas by a rate-regulated public utility or a municipally owned utility as provided in the definition of CNGP in 19.14(1).

“*Large volume user*” means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

“*Small volume user*” means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

19.14(2) *General requirement to obtain certificate.* A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.

19.14(3) *Filing requirements and application process.* Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications must be filed with the executive secretary at Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. An original and ten copies must be filed. An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant will be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments required by this subrule within 14 days of such change. Any new legal actions or formal complaints as identified in 199 IAC 2.2(18), numbered paragraph “4,” are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

19.14(4) *Deficiencies and board determination.* The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applicants will be notified when their application is complete and the 90-day period commences.

19.14(5) *Conditions of certification.* CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

a. Unauthorized charges. A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

b. Notification of emergencies. Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. Reports to the board. Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall contain the following information for its Iowa operations:

- (1) The average number of small volume end users served per month.
 - (2) The average number of large volume end users served per month.
 - (3) The total volume of sales to small volume end users, by month.
 - (4) The total volume of sales to large volume end users, by month.
 - (5) The revenue collected from small volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.
 - (6) The revenue collected from large volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.
 - (7) The date the applicant began providing service in Iowa.
- d. Rescinded IAB 4/28/04, effective 6/2/04.*

19.14(6) *Additional conditions applicable to CNGPs providing service to small volume end users.* All CNGPs when providing service to small volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.14(5):

a. Customer deposits. Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

- Customer deposits – subrule 19.4(2)
- Interest on customer deposits – subrule 19.4(3)
- Customer deposit records – subrule 19.4(4)
- Customer’s receipt for a deposit – subrule 19.4(5)
- Deposit refund – subrule 19.4(6)
- Unclaimed deposits – subrule 19.4(7)

b. Bills to end users. A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer’s option.

- (1) The period of time for which the billing is applicable.
- (2) The amount owed for current service, including an itemization of all charges.
- (3) Any past-due amount owed.
- (4) The last date for timely payment.
- (5) The amount of penalty for any late payment.
- (6) The location for or method of remitting payment.
- (7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.
- (8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.
- (9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.
- (10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. Disclosure. Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information required by this paragraph may be provided electronically, at the customer’s option.

d. Notice of service termination. Notice must be provided to the end user and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. Transfer of accounts. CNGPs are prohibited from transferring the account of any end user to another supplier except with the consent of the end user. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP’s business in Iowa, provided that the transfer satisfies all of the following conditions:

- (1) The transferee will serve the affected end users through a certified CNGP;
- (2) The transferee will honor the transferor’s contracts with the affected end users;
- (3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;

- (4) Any affected end user is given 30 days to change supplier without penalty; and
- (5) The transferor provides notice to the public utility of the effective date of the transfer.

f. Bond requirement. The board may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the board and reviewed by the board from time to time. In determining the adequacy of the bond or demonstration, the board shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served, with the objective of ensuring that the board's financial requirements do not create unreasonable barriers to market entry.

g. Replacement cost for supply failure. Each individual rate-regulated public utility shall file for the board's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system purchased gas adjustment.

[Editorial change: IAC Supplement 12/29/10]

199—19.15(476) Customer contribution fund.

19.15(1) Applicability and purpose. This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

19.15(2) Program plan. Each utility shall have on file with the board a detailed description of its program plan. At a minimum, the plan shall include the following information:

- a.* A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;
- b.* A sample of the customer notification with a description of the method and frequency of its distribution;
- c.* A sample of the authorization form provided to customers; and
- d.* The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

19.15(3) Notification. Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

- a.* A description of the availability and the purpose of the fund;
- b.* A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

19.15(4) Methods of contribution. The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

19.15(5) Annual report. On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

19.15(6) Binding effect. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—19.16(476) Reserve margin.

19.16(1) *Applicability.* All rate-regulated gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the purchased gas adjustment.

19.16(2) *Definitions.*

a. Contract services. The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities, but excluding the delivery capacity of propane storage facilities, shall be considered as contract services.

b. Maximum daily system demand requirements. The maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. Design day. The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

19.16(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.* A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.* A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(5) *Rebuttable presumption.* All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

19.16(6) *Allocation of cost of the reserve.* Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

199—19.17(476) Incident notification and reports.

19.17(1) *Notification.* A utility shall notify the board immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

- a.* A death or personal injury necessitating in-patient hospitalization.
- b.* Estimated property damage of \$15,000 or more to the property of the utility and to others, including the cost of gas lost.
- c.* Emergency shutdown of a liquefied natural gas (LNG) facility.
- d.* An interruption of service to 50 or more customers.
- e.* Any other incident considered significant by the utility.

19.17(2) *Information required.* The utility shall notify the board by telephone, as soon as practical, of any reportable incident by calling the board duty officer at (515)745-2332 or by e-mail at

dutyofficer@iub.iowa.gov. The caller shall leave a call-back number for a person who can provide the following information:

- a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries and the extent of those injuries, if any.
- e. An initial estimate of damages.
- f. The number of services interrupted.
- g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.
- h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

19.17(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the board. The report shall include the information required for telephone notice in subrule 19.17(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board shall also be provided to the board.

[Editorial change: IAC Supplement 12/29/10; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—19.18(476) Capital infrastructure investment automatic adjustment mechanism.

19.18(1) *Eligible capital infrastructure investment.* A rate-regulated natural gas utility may file for board approval a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

- a. Meet the following criteria:
 - (1) The costs are beyond the direct control of management;
 - (2) The costs are subject to sudden, important change in level;
 - (3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and
 - (4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or
- b. Be costs for a capital infrastructure investment which:
 - (1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;
 - (2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and
 - (3) Replaces or modifies existing infrastructure required by state or local government action or is required to meet state or federal natural gas pipeline safety regulations.

c. Recovery of additional costs for eligible infrastructure investment through an automatic adjustment mechanism under paragraph 19.18(1)“b” shall not be allowed after four years from December 7, 2011. The costs of eligible capital infrastructure investment included in rates prior to the end of the four-year period may still be recovered until the utility's next general rate proceeding filing or until the unit of capital has been depreciated to zero. The utility shall file a proposed tariff annually for recovery after the end of the four-year period.

19.18(2) *Determination of recovery factor.* The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the average cost of debt from the utility's last general rate review proceeding. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility's last general rate review proceeding.

19.18(3) Recovery procedures.

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1)“*a*” through an automatic adjustment mechanism, the utility is required to obtain prior board approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

- (1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;
- (2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility’s management;
- (3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;
- (4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;
- (5) A description of proposed recovery procedures, if different from the procedures described in paragraphs 19.18(3)“*c*” and “*d*”; and
- (6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1)“*b*” may be made by the utility by filing a proposed tariff with a 30-day effective date. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The utility shall file information in support of the proposed automatic adjustment rates that includes:

- (1) The government entity mandate or action, including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action, that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project.
- (2) The location, description, and costs associated with the project.
- (3) The cost of debt and applicable depreciation rates from the utility’s last general rate review proceeding.
- (4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.
- (5) The utility shall provide supporting documentation, including but not limited to work orders and journal entries, to the board staff or the office of consumer advocate upon request.
- (6) If the capital infrastructure investment to be included in the automatic adjustment mechanism is based upon an integrity or safety plan adopted in compliance with state or federal natural gas pipeline safety regulations, describe the relationship of the capital infrastructure investment to the integrity or safety plan and the relationship of the integrity or safety plan to a specific state or federal regulation. Provide the date the state or federal regulation was adopted, any relevant compliance dates, and the date the integrity or safety plan was adopted by the utility and how the integrity or safety plan was developed.

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff, unless otherwise ordered by the board. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year’s sales volumes with the necessary degree-day adjustments. The utility may also use the degree-day adjustment that the utility utilized in the most recent purchased gas adjustment annual filing or any other appropriate degree-day adjustment. The degree-day adjustment shall not be determinative of any weather normalization adjustment in any future rate case.

d. The utility shall file an annual reconciliation within 60 days of the end of the 12-month period each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period beginning with the effective date of the tariff. Any over-recoveries or under-recoveries from the reconciliation shall be recovered over the ten-month period from the effective date of any adjustment required by the reconciliation.

e. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism approved under this rule shall continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the board in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once final rates approved by the board in the next general rate proceeding are effective, the automatic adjustment mechanism shall reset to zero. [ARC 9831B, IAB 11/2/11, effective 12/7/11]

These rules are intended to implement 42 U.S.C.A. 8372, 10 CFR, 516.30, and Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

[Filed 7/12/66; amended 6/27/75]

[Filed 12/30/75, Notice 10/6/75—published 1/26/76, effective 3/1/76]

[Filed 9/30/77, Notice 6/29/77—published 10/19/77, effective 11/23/77]

[Filed 10/4/78, Notice 8/23/78—published 11/1/78, effective 12/6/78]

[Filed emergency 12/22/78—published 1/10/79, effective 12/22/78]

[Filed 4/10/79, Notice 11/1/78—published 5/2/79, effective 6/6/79]

[Filed 6/8/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]

[Filed 9/24/80, Notice 7/23/80—published 10/15/80, effective 11/19/80]

[Filed 9/26/80, Notice 8/6/80—published 10/15/80, effective 11/19/80]

[Filed 6/5/81, Notice 4/15/81—published 6/24/81, effective 7/29/81]

[Filed 6/19/81, Notice 10/1/80—published 7/8/81, effective 8/12/81]

[Filed 10/20/81, Notice 11/26/80—published 11/11/81, effective 12/16/81]

[Filed emergency 11/17/81 after Notice 9/30/81—published 12/9/81, effective 11/17/81]

[Filed emergency 12/14/81—published 1/6/82, effective 12/14/81]

[Filed 1/28/82, Notice 5/27/81—published 2/17/82, effective 3/24/82]

[Filed 1/28/82, Notice 10/1/80—published 2/17/82, effective 3/31/82]

[Filed 9/24/82, Notice 4/28/82—published 10/13/82, effective 11/17/82]

[Filed 10/21/82, Notice 8/18/82—published 11/10/82, effective 12/15/82]

[Filed 2/25/83, Notice 12/22/82—published 3/16/83, effective 4/20/83]

[Filed emergency 4/22/83—published 5/11/83, effective 4/22/83]

[Filed 4/15/83, Notice 1/19/83—published 5/11/83, effective 6/15/83]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed emergency 7/29/83—published 8/17/83, effective 7/29/83]

[Filed 9/9/83, Notice 6/8/83—published 9/28/83, effective 11/2/83]

[Filed 9/9/83, Notice 6/8/83—published 9/28/83, effective 1/1/84]

[Filed 11/4/83, Notice 8/31/83—published 11/23/83, effective 1/1/84]

[Filed emergency 12/16/83 after Notice 9/28/83—published 1/4/84, effective 1/1/84]

[Filed 12/16/83, Notice 9/14/83—published 1/4/84, effective 2/8/84]

[Filed 1/13/84, Notice 11/9/83—published 2/1/84, effective 3/7/84]

[Filed 1/27/84, Notice 11/23/84—published 2/15/84, effective 3/21/84]¹

[Filed 4/9/84, Notice 1/18/84—published 4/25/84, effective 5/30/84]

[Filed 4/20/84, Notice 2/15/84—published 5/9/84, effective 6/13/84]²

[Filed 5/4/84, Notice 1/4/84—published 5/23/84, effective 6/27/84]

[Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]

[Filed emergency 6/15/84—published 7/4/84, effective 6/15/84]

[Filed 8/24/84, Notice 1/18/84—published 9/12/84, effective 10/17/84]

[Filed 9/10/84, Notice 7/18/84—published 9/26/84, effective 10/31/84]

[Filed 9/21/84, Notice 5/23/84—published 10/10/84, effective 11/14/84]

[Filed 10/19/84, Notice 8/15/84—published 11/7/84, effective 12/26/84]

[Filed 1/14/85, Notice 11/7/84—published 1/30/85, effective 3/6/85]

[Filed 4/19/85, Notice 2/13/85—published 5/8/85, effective 6/12/85]

[Filed 5/6/85, Notice 1/2/85—published 5/22/85, effective 6/26/85]

[Filed 6/14/85, Notice 4/10/85—published 7/3/85, effective 8/7/85]

- [Filed 8/9/85, Notice 6/19/85—published 8/28/85, effective 10/2/85]
- [Filed emergency 2/7/86 after Notices 10/9/85, 12/4/85—published 2/26/86, effective 3/31/86]
 - [Filed 8/8/86, Notice 5/7/86—published 8/27/86, effective 10/1/86]³
 - [Filed 8/22/86, Notice 6/18/86—published 9/10/86, effective 10/15/86]³
 - [Filed 8/22/86, Notices 5/21/86, 6/4/86—published 9/10/86, effective 10/15/86]⁴
 - [Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]
 - [Filed 4/3/87, Notices 11/5/86, 12/3/86, 2/25/87—published 4/22/87, effective 5/27/87]
 - [Filed 4/17/87, Notice 12/3/86—published 5/6/87, effective 6/10/87]
 - [Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
 - [Filed 9/2/88, Notice 3/9/88—published 9/21/88, effective 10/26/88]
 - [Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
 - [Filed 12/8/88, Notice 10/19/88—published 12/28/88, effective 2/1/89]
 - [Filed 1/6/89, Notices 7/1/87, 1/13/88, 7/27/88—published 1/25/89, effective 3/1/89]
 - [Filed 3/30/89, Notice 10/19/88—published 4/19/89, effective 5/24/89]
 - [Filed 4/28/89, Notice 9/21/88—published 5/17/89, effective 6/21/89]
 - [Filed 5/24/89, Notices 5/4/88, 6/29/88, 12/14/88—published 6/14/89, effective 7/19/89]
 - [Filed 5/24/89, Notice 1/11/89—published 6/14/89, effective 7/19/89]
 - [Filed 11/27/89, Notice 9/6/89—published 12/13/89, effective 1/17/90]
 - [Filed 2/1/90, Notice 9/20/89—published 2/21/90, effective 3/28/90]
 - [Filed 2/28/90, Notice 11/1/89—published 3/21/90, effective 4/25/90][◊]
 - [Filed emergency 4/13/90—published 5/2/90, effective 4/13/90]
 - [Filed 4/13/90, Notice 10/18/89—published 5/2/90, effective 6/6/90]
 - [Filed 5/11/90, Notice 10/18/89—published 5/30/90, effective 7/4/90]
 - [Filed 5/25/90, Notice 2/21/90—published 6/13/90, effective 7/18/90]
 - [Filed 9/14/90, Notice 11/29/89—published 10/3/90, effective 11/7/90]
 - [Filed 11/21/90, Notice 5/2/90—published 12/12/90, effective 1/16/91]
 - [Filed 12/21/90, Notice 6/27/90—published 1/9/91, effective 2/13/91]
 - [Filed emergency 3/15/91 after Notice 1/23/91—published 4/3/91, effective 3/15/91]
 - [Filed 3/28/91, Notice 10/3/90—published 4/17/91, effective 5/22/91]
 - [Filed emergency 7/16/91 after Notice 6/12/91—published 8/7/91, effective 7/16/91]
 - [Filed emergency 8/16/91 after Notice 5/1/91—published 9/4/91, effective 10/1/91]
 - [Filed 3/20/92, Notice 8/7/91—published 4/15/92, effective 5/20/92]
 - [Filed 4/23/92, Notice 10/30/91—published 5/13/92, effective 6/17/92]
 - [Filed 2/12/93, Notice 9/16/92—published 3/3/93, effective 4/7/93]
 - [Filed 8/11/93, Notice 5/12/93—published 9/1/93, effective 10/6/93]⁵
 - [Filed emergency 4/21/94—published 5/11/94, effective 4/21/94]
 - [Filed emergency 7/15/94 after Notice 3/16/94—published 8/3/94, effective 8/1/94]
 - [Filed 4/21/95, Notice 9/28/94—published 5/10/95, effective 6/14/95]
 - [Filed 12/23/96, Notice 9/11/96—published 1/15/97, effective 2/19/97]
 - [Filed 9/4/97, Notice 3/12/97—published 9/24/97, effective 10/29/97]
 - [Filed 10/31/97, Notices 1/29/97, 3/12/97—published 11/19/97, effective 12/24/97]
 - [Filed 10/31/97, Notice 5/7/97—published 11/19/97, effective 12/24/97]
 - [Filed 1/23/98, Notice 7/2/97—published 2/11/98, effective 3/18/98]
 - [Published 6/17/98 to update name and address of board]
 - [Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]
 - [Filed 12/8/99, Notice 4/21/99—published 12/29/99, effective 2/2/00]
 - [Filed 1/21/00, Notice 11/3/99—published 2/9/00, effective 3/15/00]
 - [Filed 5/11/00, Notice 10/6/99—published 5/31/00, effective 7/5/00]
 - [Filed 1/4/01, Notices 3/8/00, 8/23/00—published 1/24/01, effective 2/28/01]
 - [Filed 3/1/01, Notice 7/12/00—published 3/21/01, effective 4/25/01]
 - [Filed emergency 3/30/01—published 4/18/01, effective 3/30/01]
 - [Filed 8/3/01, Notice 3/21/01—published 8/22/01, effective 11/1/01]

[Filed 9/14/01, Notice 4/18/01—published 10/3/01, effective 11/7/01]
 [Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]
 [Filed 12/27/02, Notice 7/24/02—published 1/22/03, effective 2/26/03]
 [Filed 7/18/03, Notice 2/5/03—published 8/6/03, effective 9/10/03]
 [Filed 10/24/03, Notices 2/5/03, 4/2/03—published 11/12/03, effective 12/17/03]
 [Filed 11/19/03, Notice 4/2/03—published 12/10/03, effective 1/14/04]
 [Filed 4/9/04, Notice 10/15/03—published 4/28/04, effective 6/2/04]
 [Filed 7/16/04, Notice 6/9/04—published 8/4/04, effective 9/8/04]
 [Filed 7/30/04, Notice 6/9/04—published 8/18/04, effective 9/22/04]
 [Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
 [Filed 10/8/04, Notice 7/7/04—published 10/27/04, effective 12/1/04]
 [Filed 1/22/07, Notice 11/8/06—published 2/14/07, effective 3/21/07]
 [Filed 4/4/07, Notice 9/13/06—published 4/25/07, effective 5/30/07]
 [Filed 5/2/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]
 [Filed 12/27/07, Notice 9/26/07—published 1/30/08, effective 3/5/08]
 [Filed ARC 7584B (Notice ARC 7420B, IAB 12/17/08), IAB 2/25/09, effective 4/1/09]
 [Filed ARC 7962B (Notice ARC 7749B, IAB 5/6/09), IAB 7/15/09, effective 8/19/09]
 [Filed ARC 9101B (Notice ARC 8858B, IAB 6/16/10), IAB 9/22/10, effective 10/27/10]
 [Editorial change: IAC Supplement 12/29/10]
 [Filed ARC 9501B (Notice ARC 9394B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]
 [Filed ARC 9831B (Notice ARC 9529B, IAB 6/1/11), IAB 11/2/11, effective 12/7/11]
 [Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

◇ Two or more ARCs

¹ Effective date of 19.3(10) “a,” “b,” (1), (2), (2)“1,” (3) and (4) delayed 70 days by administrative rules review committee.

² Effective date of 19.4(11), third unnumbered paragraph, delayed 70 days by administrative rules review committee.

³ See IAB, Utilities Division

⁴ Published in Notice portion of IAB 9/10/86; See IAB 10/22/86

⁵ Effective date of 19.4(3) delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 20
SERVICE SUPPLIED BY ELECTRIC UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.

20.1(2) *Application of rules.* The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476,78GA,HF2206).

The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

These rules shall in no way relieve any utility from any of its duties under the laws of this state.

20.1(3) *Definitions.* The following words and terms when used in these rules, shall have the meaning indicated below:

“Acid Rain Program” means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

“Act” means the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

“Affected unit” means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR) or the Clean Air Mercury Rule (CAMR), or a unit or source that opts in under 40 CFR Part 74.

“Allowance” means an authorization, allocated by the United States Environmental Protection Agency (EPA) under the Acid Rain Program, to emit sulfur dioxide (SO₂), any SO₂ and nitrogen oxide (NO_x) emissions subject to the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), during or after a specified calendar year.

“Allowance forward contract” is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.

“Allowance futures contract” is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

“Allowance option contract” is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

“Board” means the utilities board.

“Clean Air Interstate Rule” or *“CAIR”* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

“*Clean Air Mercury Rule*” or “*CAMR*” means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.

“*Complaint*” as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

“*Compliance plan*” means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

“*Customer*” means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the electric service or heat from the electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Economy energy*” is energy bought or sold in a transaction wherein the supplier’s incremental cost is less than the buyer’s decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” is furnishing to the public for compensation any electricity, heat, light, power, or energy.

“*Emission for emission trade*” is an exchange of one type of emission for another type of emission. For example, the exchange of SO₂ emission allowances for NO_x emission allowances.

“*Energy*” means electric energy measured in kilowatt hours.

“*Firm power*” is power and associated energy intended to be available at all times during the period covered by the commitment.

“*Gains and losses from allowance sales*” are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Meter shop*” is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

“*Operating reserve*” is a reserve generating capacity required to ensure reliability of generation resources.

“*Operational control energy*” is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.

“*Outage energy*” is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.

“*Participation power*” means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to prorate or other specified reduction if the units are not operated at full capacity.

“*Peaking power*” is power and associated energy intended to be available at all times during the commitment and which is anticipated to have low load factor use.

“*Power*” means electric power measured in kilowatts.

“*Price hedging*” means using futures contracts or options to guard against unfavorable price changes.

“*Rate-regulated utility*” means any utility, as defined in 20.1(3), which is subject to board rate regulation under Iowa Code chapter 476.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer’s meter.

“*Service limiter*” or “*service limitation device*” means a device that limits a residential customer’s power consumption to 3,600 watts (or some higher level of usage approved by the board) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

“*Speculation*” means using futures contracts or options to profit from expectations of future price changes.

“*Tariff*” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by an electric utility in fulfilling its role of furnishing service.

“*Timely payment*” is a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Utility*” means any person, partnership, business association or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

“*Vintage trade*” is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

“*Weighted average unit cost of inventoried allowances*” equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

“*Wheeling service*” is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

20.1(4) Abbreviations. The following abbreviations may be used where appropriate:

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018.

DOE—Department of Energy, Washington, D.C. 20426.

EPA—United States Environmental Protection Agency.

FCC—Federal Communications Commission, 1919 M Street, Washington, D.C. 20554.

FERC—Federal Energy Regulatory Commission, Washington, D.C. 20426.

NARUC—National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044.

NBS—National Bureau of Standards, Washington, D.C. 20234.

NFPA—National Fire Protection Association, 470 Atlantic Ave., Boston, Massachusetts 02210.

[ARC 7976B, IAB 7/29/09, effective 9/2/09]

199—20.2(476) Records, reports, and tariffs.

20.2(1) Location and retention of records. Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

20.2(2) Tariffs to be filed with the board. The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the

board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

20.2(3) Form and identification. All tariffs shall conform to the following rules:

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words "Tariff with board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)

Electric Tariff

Filed with

Iowa Utilities Board

(Date)

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. _____

SUPERSEDES TARIFF NO. _____

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed regulation

(D)—Discontinued rate or regulation

(I)—Increase in rate or new treatment resulting in increased rate

(N)—New rate, treatment or regulation

(R)—Reduction in rate or new treatment resulting in reduced rate

(T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board.

The utility may propose an effective date.

20.2(4) Content of tariffs.

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

b. A preliminary statement containing a brief general explanation of the utility's operations.

c. All rates for service with indication for each rate of the type and voltage of service and the class of customers to which each rate applies. There shall also be shown any limitations on loads and type of equipment which may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

d. The voltage and type of service, (direct current or single or polyphase alternating current) supplied in each municipality, but without reference required to any particular part thereof.

e. Forms of standard contracts required of customers for the various types of service available.

f. If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and shall include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery and any special provisions such as rentals. Standard contracts for such sales as that of energy for resale, street lighting, municipal athletic field lighting, and for water utilities may be filed in summary form as above outlined.

g. Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

h. A list of all communities in which service is furnished.

i. The list of service areas and the rates shall be filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. If the utility has various rural rates, the areas where the same are available shall be indicated.

j. Definitions of classes of customers.

k. Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

l. Type of construction which the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

m. Specification of such portion of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in whole or in part by the utility, and statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

n. Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

o. Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

p. Rules governing the establishment and maintenance of credit by customers for payment of service bills.

q. Rules governing the procedure followed in disconnecting and reconnecting service.

r. Notice required from a customer for having service discontinued.

s. Rules covering temporary, emergency, auxiliary and stand-by service.

t. Rules covering the type of equipment which may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

u. General statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

v. Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

w. Rules for extending service in accordance with 20.3(13).

x. If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

y. Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

z. Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

20.2(5) *Annual, periodic and other reports to be filed with the board.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with general requirement 20.3(11) and a statement as to the location of the utility's offices where such maps are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

b. Accident reports. Rescinded IAB 12/11/91, effective 1/15/92. See 199—25.5(476,478).

c. Rescinded IAB 11/13/02, effective 12/18/02.

d. Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition and disposition of electric energy, the number of customer terminal voltage investigations made, the number of customer meters tested and such other information as may be required by the board. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered and such record shall, upon and after compilation, be kept available for inspection by the board or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the board.

e. The utility shall keep the board informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

f. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be filed with the board.

g. A copy of each type of customer bill form in current use shall be filed with the board.

h. A copy of the adjustment calculation shall be provided the board prior to each billing cycle on the forms adopted by the board.

i. Rescinded IAB 1/9/91, effective 2/13/91.

j. Residential customer statistics. Each rate-regulated electric utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

- (1) Number of accounts;
- (2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
- (3) Number of accounts past due;
- (4) Number of accounts eligible for energy assistance and past due;
- (5) Total revenue owed on accounts past due;
- (6) Total revenue owed on accounts eligible for energy assistance and past due;
- (7) Number of disconnection notices issued;
- (8) Number of disconnection notices issued on accounts eligible for energy assistance;
- (9) Number of disconnections for nonpayment;
- (10) Number of reconnections;
- (11) Number of accounts determined uncollectible; and
- (12) Number of accounts eligible for energy assistance and determined uncollectible.

k. List of persons authorized to receive board inquiries. Each utility shall file with the board in the annual report required in 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) franchises for electric lines; (6) certificates for electric generating plants. Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about outages and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

199—20.3(476) General service requirements.

20.3(1) *Disposition of electricity.* The meter and associated instrument transformers shall be owned by the utility. The wiring between the instrument transformers and the meter shall be owned or controlled by the utility. The utility shall place a visible seal on all meters in customer use, such that the seal must be broken to gain entry.

a. All electricity sold by a utility shall be on the basis of meter measurement except:

- (1) Where the consumption of electricity may be readily computed without metering; or
- (2) For temporary service installations.

b. The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

- (1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;
- (2) Where a facility is designated for elderly or handicapped persons;
- (3) Where submetering or resale of service was permitted prior to 1966; or
- (4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)“*b*” have been met.

d. For purposes of this subrule, a “master meter” means a single meter used in determining the amount of electricity provided to a multioccupancy building or multiple buildings.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

f. All electricity consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering, or where metering is impractical.

20.3(2) Condition of meter. Rescinded IAB 11/12/03, effective 12/17/03.

20.3(3) Meter reading records. The meter reading records shall show:

a. Customer’s name, address, and rate schedule or identification of rate schedule.

b. Identification of the meter or meters either by permanently marked utility number or by manufacturer’s name, type number and serial number.

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant.

20.3(4) Meter charts. All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer’s name and location and the chart multiplier.

20.3(5) Meter register. If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter.

Where magnetic tape or other delayed processing means is used the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

20.3(6) Meter reading and billing interval. Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the board. A waiver request must include sufficient information to comply with 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a high demand customer after the initial month, that customer’s meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility’s tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be rendered.

If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

20.3(7) Demand meter registration. When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

20.3(8) Service areas. Service areas are defined by the boundaries on service area maps, available for viewing during regular business hours at the board's offices, and available for purchase at the cost of reproduction. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

20.3(9) Petition for modification of service area and answers. An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

Any electric utility or municipal corporation may file a petition for modification of service area which shall contain a legal description of the service area desired, a designation of the utilities involved in each boundary section, and a justification for the proposed service area modification. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 20.3(11) "a" shall be attached to the petition as an exhibit.

Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

All parties shall file an answer which complies with 199—subrule 7.5(1).

20.3(10) Certificate of authority. Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(9) which would result in service to a customer by a utility other than the utility currently serving the customer must also petition the board for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

20.3(11) Maps.

a. Each utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

- (1) Generating stations with capacity designation.
- (2) Purchased power supply points with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.
- (4) Transmission lines with size and type of conductor designation and operating voltage designation.
- (5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.

(7) Distribution lines with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

20.3(12) Rescinded, IAB 6/29/88, effective 8/3/88.

20.3(13) *Plant additions, electrical line extensions and service lines.*

a. *Definitions.* The following definitions shall apply to the terms used in this subrule:

"Advance for construction," as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the extensive plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining tax liability.

"Agreed-upon attachment period," as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction," as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of an electrical line extension or service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Electrical line extensions" means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

"Equivalent overhead transformer cost," as used in this subrule, is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it shall be the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it shall be the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

"Estimated annual revenues," as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated base revenues," as used in this subrule, shall be calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the board and energy efficiency charges from the estimated annual revenues.

"Estimated construction costs," as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except

equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

“Plant addition,” as used in this subrule, means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.

“Point of attachment” is that point of first physical attachment of the utilities’ service drop (overhead) or service lateral (underground) conductors to the customer’s service entrance conductors. For overhead services it shall be the point of tap or splice to the service entrance conductors. For underground services it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

“Service line,” as used in this subrule, means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

“Similarly situated customer,” as used in this subrule, means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

“Utility,” as used in this subrule, means a rate-regulated utility.

b. Plant additions. The utility shall provide all electric plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction by the customer to make plant additions shall be available for board inspection.

c. Electrical line extensions. Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction

equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated construction cost to provide the electrical line extension, the entire amount of the advance for construction provided shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.

3. In no event shall the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the electrical line extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$\begin{aligned} & (\text{Estimated Construction Costs}) \times \\ & \frac{(\text{Total Length in Excess of 50 Feet})}{(\text{Total Length of Service Line})} \end{aligned}$$

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

(5) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. Extensions not required. Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule, unless the electrical line extension or service line shall be of a permanent nature.

f. Different payment arrangement. This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

This rule is intended to implement Iowa Code section 476.8.

[ARC 7584B, IAB 2/25/09, effective 4/1/09; ARC 9501B, IAB 5/18/11, effective 6/22/11]

199—20.4(476) Customer relations.

20.4(1) Customer information. Each utility shall:

a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, together with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving prospective customers in its service area.

b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the customer's proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. [199—7.4(476)IAC]

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility has provided access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of electricity for each billing during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

20.4(2) Customer contact employee qualifications. Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: “If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov.”

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

20.4(3) Customer deposits.

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer’s deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility’s business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service, or for an industrial customer, shall be the customer’s projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

20.4(4) Interest on customer deposits. Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer’s account, or to the date the customer’s bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer’s last-known address. The date a customer’s bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

20.4(5) Customer deposit records. Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

20.4(6) Customer’s receipt for a deposit. Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

20.4(7) Deposit refund. A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and 1 automatic forgiveness of late payment). For refund purposes the account shall be reviewed for prompt payment after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However,

deposits received from customers subject to the exemption provided by 20.4(3) "b," including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

20.4(8) Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

20.4(9) Customer bill forms. Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.

b. The dates on which the meter was read, at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule, or identification of the applicable rate schedule.

e. The account balance brought forward and amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

j. Customer billing information alternate. A utility serving less than 5000 electric customers may provide the information in 20.4(9) on bill form or otherwise. If the utility elects not to provide the information of 20.4(9), it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

20.4(10) Rescinded, effective 7/1/81.

20.4(11) Payment agreements.

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. *Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. *Terms of payment agreements.*

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with

these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

20.4(12) Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month, shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 20.4(12) "e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

20.4(13) Customer records. The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than three years. Records for customer shall show where applicable:

a. kWh meter reading

- b. kWh consumption
- c. kW meter reading
- d. kW measured demand
- e. kW billing demand
- f. Total amount of bill.

20.4(14) Adjustment of bills.

a. *Meter error.* Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watthour metering; or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering; an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watthour metering installations the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. *Determination of adjustment.* Recalculation of bills shall be on the basis of actual monthly consumption except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kilowatt-hours, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months, consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in immediately following subparagraphs (1) and (2).

(1) *Overregistration.* If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as one-half the time since the meter was installed, or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) *Underregistration.* If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the board.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

c. *Refunds.* If the recalculated bills indicate that \$5 or more is due an existing customer or \$10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

d. Back billing. A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be rendered no later than six months following the date of the metering installation test.

e. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

f. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

g. Credits and explanations. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

20.4(15) Refusal or disconnection of service. A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15) "b." The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

- (1) In the event of a condition on the customer's premises determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
- (4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

- (1) For violation of or noncompliance with the utility's rules on file with the board.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

- (3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "electric" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

- a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
- b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).
- d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.
- e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.
- f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.
- g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my service?

- a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.
- b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.
- c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

- a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).
- b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.
- c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E.

Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and responsibilities, as set forth in subparagraph 20.4(15)“d”(3):

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer’s rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer’s present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(7) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)“d”(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)“d.”

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person’s own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or

mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15) "f."

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(11) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

20.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

- a.* Delinquency in payment for service by a previous occupant of the premises to be served.
- b.* Failure to pay for merchandise purchased from the utility.
- c.* Failure to pay for a different type or class of public utility service.
- d.* Failure to pay the bill of another customer as guarantor thereof.
- e.* Failure to pay the back bill rendered in accordance with paragraph 20.4(14) "d" (slow meters).
- f.* Failure to pay a bill rendered in accordance with paragraph 20.4(14) "f."
- g.* Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.
- h.* Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

20.4(17) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

20.4(18) *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

20.4(19) *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's rate schedules.

20.4(20) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

20.4(21) *Temporary service.* When the utility renders temporary service to a customer it may require that the customer bear all of the cost of installing and removing the service facilities in excess of any salvage realized.

20.4(22) *Change in type of service.* If a change in the type of service, such as from 25- to 60-cycle or from direct or alternating current, or a change in voltage to a customer's substation, is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment.

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

20.4(23) *Limitation of service.* The utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)“f.”

[ARC 7976B, IAB 7/29/09, effective 9/2/09; ARC 9101B, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

These rules are intended to implement Iowa Code sections 476.6, 476.8, 476.20 and 476.54.

199—20.5(476) Engineering practice.

20.5(1) Requirement for good engineering practice. The electric plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

20.5(2) Standards incorporated by reference. The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

- a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- b.* National Electrical Code, ANSI/NFPA 70-2011.
- c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.
- d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.
- e.* Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.
- f.* IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.
- g.* IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.
- h.* At railroad crossings, 199—42.6(476), “Engineering standards for electric and communications lines.”

20.5(3) Adequacy of supply and reliability of service. The generating capacity of the utility’s plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the board will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those which lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility’s own generating facilities.

a. In the case of utilities having interconnecting ties with other utilities, the board will, upon appraising adequacy of supply, take appropriate notice of the utility’s recent past record, as of the

date of appraisal, of any widespread service interruptions and any capacity shortages along with the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

b. In the case of noninterconnected utilities the board will give attention to the maximum total coincident customer demand which could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

20.5(4) *Electric transmission and distribution facilities.* Rescinded IAB 11/13/02, effective 12/18/02.

20.5(5) *Inspection of electric plant.* Each utility shall adopt a written program for inspection of its electric plant in order to determine the necessity for replacement and repair in compliance with board rule 199—25.3(476,478).

This rule is intended to implement Iowa Code section 476.8 and 478.18.
[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—20.6(476) Metering.

20.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The publications listed in 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

20.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

- a.* Classification of meters by capacity, type, and any other factor considered pertinent.
- b.* Checking of new meters for acceptable accuracy before being placed in service.
- c.* Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.
- d.* Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e.* The limits of meter accuracy considered acceptable by the utility.
- f.* The nature of meter and meter test records which will be maintained by the utility.

20.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

- a.* American National Standard Code for Electricity Metering, ANSI C12.1-2008.
- b.* and *c.* Rescinded IAB 5/23/07, effective 6/27/07.

20.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

20.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer \$25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

20.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit in the form of a check or money order made payable to the utility.

Within five days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after

notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 20.4(14). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

20.6(7) Condition of meter. No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

199—20.7(476) Standards of quality of service.

20.7(1) Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer's clocks connected to the system.

20.7(2) Voltage limits retail. Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at 20.5(2) "d."

20.7(3) Voltage balance. Where three-phase service is provided the utility shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

20.7(4) Voltage limits, service for resale. The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the board.

20.7(5) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:

- a. Arise from the action of the elements.
- b. Are infrequent fluctuations not exceeding five minutes, duration.
- c. Arise from service interruptions.
- d. Arise from temporary separation of parts of the system from the main system.
- e. Are from causes beyond the control of the utility.
- f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

20.7(6) Voltage surveys and records. Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

20.7(7) Each utility shall make a sufficient number of voltage measurements, using recording voltmeters, in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), 20.7(4). All voltmeter records obtained under 20.7(7) shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

- a. The location where the voltage was taken.
- b. The time and date of the test.
- c. The results of the comparison with a working standard indicating voltmeter.

20.7(8) Equipment for voltage measurements.

a. *Secondary standard indicating voltmeter.* Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. *Recording voltmeters.* Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

20.7(9) Rescinded IAB 12/11/91, effective 1/15/92.

20.7(10) Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

20.7(11) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

20.7(12) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at 20.5(2) "f."

20.7(13) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 20.5(2) "g."

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

199—20.8(476) Safety.

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

20.8(2) *Accident investigation and prevention.* The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

20.8(3) *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in 199—25.5(476,478), arising from its operations.

20.8(4) *Grounding of secondary distribution system.* Unless otherwise specified by the board, each utility shall comply with, and shall encourage its customers to comply with, the applicable provisions of the acceptable standards listed in 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

199—20.9(476) Electric energy sliding scale or automatic adjustment. A rate-regulated utility's sliding scale or automatic adjustment of the unit charge for electric energy shall be an energy clause.

20.9(1) *Applicability.* A rate-regulated utility's sliding scale or automatic adjustment of electric utility energy rates shall recover from consumers only those costs which:

- Are incurred in supplying energy;
- Are beyond direct control of management;
- Are subject to sudden important change in level;
- Are an important factor in determining the total cost to serve; and
- Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy clause for rate-regulated utility.* Prior to each billing cycle, a rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and
2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.
 - a. The energy adjustment shall provide for change of the price per kilowatt hour consumed under rates set by the board based upon the formulas provided below. The calculation shall be:

$$E_0 = \frac{EC_0 + EC_1}{EQ_0 + EQ_1} + \frac{A_1}{EJ_0 + EJ_1} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

EC_0 is the estimated expense for energy in the month during which E_0 will be used.

EC_1 is the estimated expense for energy in the month prior to the month of EC_0 .

EQ_0 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which E_0 will be used.

EQ_1 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to EQ_0 .

EJ_0 is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge (E_0) will be used in bill calculations.

EJ_1 is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of EJ_0 .

A_1 is the beginning of the month energy cost adjustment account balance for the month of estimated consumption EJ_1 . This would be the most recent month's balance available from actual accounting data.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. The estimated energy cost ($EC_0 + EC_1$) shall be the estimated cost associated with EQ_0 and EQ_1 determined as the cost of:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects the energy

cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph 20.9(2) "b."

(5) The energy costs paid for energy purchased under arrangements or contracts for firm power, operational control energy, outage energy, participation power, peaking power, and economy energy, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from AEP facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4) "b."

c. The energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the actual expense for energy, calculated as set forth in 20.9(2) "b," in the month prior to EJ_1 of 20.9(2) "a."

J_2 is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.

Q_2 is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace that normally received from nuclear sources. A surcharge would be added to each kilowatt hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

e. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

f. A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules.

20.9(3) Optional energy clause for a rate-regulated utility which does not own generation. A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle it shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and
2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2 , C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2 , Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2 , C_3 and C_4 were incurred.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.

For a utility electing to use an energy cost adjustment account the calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2 , C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2 , Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2 , C_3 and C_4 were incurred.

A_2 is the end of the month energy cost adjustment account balance for the month of consumption J_2 . This would be the most recent month's balance available from actual accounting data.

J_2 , J_3 and J_4 are electric energy consumed under rates set by the board in the months corresponding to C_2 , C_3 and C_4 .

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

c. The end of the month energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.

Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.

J_2 is the electric energy consumed under jurisdictional rates in the prior month.

Q_2 is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.

e. A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.

20.9(4) Annual review of energy clause. On or before each May 1, the board will notify each utility as to the two months of the previous calendar year for which fuel, freight, and transportation invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

This rule is intended to implement Iowa Code section 476.6(11).

199—20.10(476) Ratemaking standards.

20.10(1) Coverage. Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The board may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

20.10(2) Cost of service. Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes

of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the board.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include, but are not limited to, the following:

a. All usage of customer, demand, and energy components of service shall be considered new usage.

b. Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.

c. Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand, and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in 199—subrule 35.9(2).

d. Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns, and the load imposed by a class on the transmission or distribution capacity in question.

e. Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters and associated customer service expenses.

f. Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics, and line losses among customer classes.

g. Methods of class cost of service determination which are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission or distribution, shall be considered unacceptable methods.

h. Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.

i. The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

20.10(3) Declining block rates. The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kilowatt-hour consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

20.10(4) Time-of-day rates. The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

20.10(5) Seasonal rates. The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis which reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the board determines that seasonal rates are appropriate in an individual case.

20.10(6) *Interruptible rates.* Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which the consumer is a member.

20.10(7) *Load management techniques.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(8) *Other energy conservation strategies.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(9) *Pilot projects.* Rescinded IAB 11/12/03, effective 12/17/03.

199—20.11(476) Customer notification of peaks in electric energy demand. Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

20.11(1) *Annual notice.* Each electric utility shall provide its customers, on an annual basis, with a written notice explaining how growth in demand affects a utility's investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases. The notice shall be delivered to its customers between May 1 and June 15 of each year if peak demand is likely to occur during the months of June through September. If peak demand usually occurs during the months of October through February, the notice shall be delivered to its customers between August 1 and September 15.

20.11(2) *Notification plan.* Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

a. The plan shall include the following:

(1) A provision for a general notice to be given customers prior to the time when peak demand is likely to occur as prescribed in 20.11(2) "b" and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

(2) A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in 20.11(2) "b," and shall explain the criteria used to identify customers to whom notice will be given and when and how notice will be given.

(3) A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The board may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.

(4) The text of the general and direct message to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility or utilities providing the notice, an explanation that conditions exist which indicate a peak in demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases.

(5) A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in 20.11(2) "b."

(6) A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in 20.11(2) "b" will exist on the same day.

b. For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:

(1) The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or

(2) The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but

(3) If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in

20.11(2) “b”(1) or 20.11(2) “b”(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.

20.11(3) *Implementation of notification plan.* The utility shall implement the approved plan on each day of the year when peak demand is likely to occur, as prescribed by 20.11(2) “b.”

20.11(4) *Permissive notices.* The standard for implementing peak alert notification in subrule 20.11(2) is a minimum standard and does not prohibit a utility or association of utilities from issuing a notice requesting customers to reduce usage at any other time.

20.11(5) *Annual report.* Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report stating the number of notices given its customers, the dates when notices were issued, the annual cost of providing both general and direct notice to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued. The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and a proposal to modify the plan, if necessary, to make customer notification more effective. Modifications must be approved by the board before they are implemented.

199—20.12(476) New structure energy conservation standards. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.13(476) Periodic electric energy supply and cost review [476.6(16)].

20.13(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility’s electric fuel procurement and contracting practices. By January 31 each year the board will notify a rate-regulated utility if the utility will be required to file an electric fuel procurement plan. In the years in which it does not conduct a contested case proceeding, the board may require a utility to file certain information for the board’s review. In years in which a full proceeding is conducted, a rate-regulated utility providing electric service in Iowa shall prepare and file with the board on or before May 15 of each required filing year a complete electric fuel procurement plan for an annual period commencing June 1 or, in the alternative, for the annual period used by the utility in preparing its own fuel procurement plan. A utility’s procurement plan shall be organized to include information as follows:

a. Index. The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the board files in which the documents incorporated by reference are located.

b. Purchase contracts and arrangements. A utility’s procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

- (1) All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;
- (2) All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;
- (3) All contracts and arrangements for purchasing or selling allowances;
- (4) Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;
- (5) Pool interchange agreements;
- (6) Multiutility transmission line interchange agreements; and
- (7) Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements which will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in subparagraphs (1) and (2) of this paragraph which will be entered into or exercised by the utility

during the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

c. Other contract offers. The procurement plan shall include a list and description of those types of contracts and arrangements listed in paragraph 20.13(1) "b" offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in paragraph 20.13(1) "b" which were offered to the utility for the prospective 12-month period and into which the utility did not enter.

d. Studies or investigation reports. The procurement plans shall include all studies or investigation reports which have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in paragraphs 20.13(1) "b" and "c" which will be exercised or entered into during the prospective 12-month period.

e. Price hedge justification. The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

f. Actual and projected costs. The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1) "b" for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1) "b" in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

g. Costs directly related to the purchase of fuel. The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by paragraph "f."

h. Compliance plans. Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

i. Evidence submitted. Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The board may require the submission of machine-readable data for selected computer codes or models.

j. Additional information. Each utility shall file additional information as ordered by the board.

20.13(2) Periodic review proceeding. The board shall periodically conduct a proceeding to evaluate the reasonableness and prudence of a rate-regulated utility's procurement practices. The prudence review of allowance transactions and accompanying compliance plans shall be determined on information available at the time the options or plans were developed.

a. On or before May 15 of a required filing year, each utility shall file prepared direct testimony and exhibits in support of its fuel procurement decisions and its fuel requirement forecast. This filing shall be in conjunction with the filing of the plans. The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased fuel costs.

b. The board shall disallow any purchased fuel costs in excess of costs incurred under responsible and prudent policies and practices.

199—20.14(476) Flexible rates.

20.14(1) Purpose. This subrule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

20.14(2) General criteria.

a. Electric utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly

competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

20.14(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount rate shall be equal the energy costs and customer costs of serving the specific customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

20.14(4) *Reporting requirements.* Each rate-regulated electric utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

- (1) The identity of the new customers (by account number, if necessary);
- (2) The value of the discount offered;
- (3) The cost-benefit analysis results;
- (4) The end-use cost of alternate fuels or energy supplies available to the customer, if relevant;
- (5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

b. Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;
- (3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month;
- (4) The dollar value of the discount in the last 12 months to each customer, by month; and
- (5) The dollar value of sales to each customer for each of the previous 12 months.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer, by month;
- (3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of sales to each customer for each of the past 12 months.

d. No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

20.14(5) Rate case treatment. In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—20.15(476) Customer contribution fund.

20.15(1) Applicability and purpose. This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

20.15(2) Program plan. Each utility shall have on file with the board a detailed description of its current program plan. At a minimum, the plan shall include the following information:

a. A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

b. A sample of the customer notification with a description of the method and frequency of its distribution;

c. A sample of the authorization form provided to customers;

d. The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

20.15(3) Notification. Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

a. A description of the availability and the purpose of the fund;

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

20.15(4) Methods of contribution. The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

20.15(5) Annual report. On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

20.15(6) Binding effect. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—20.16(476) Exterior flood lighting. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.17(476) Ratemaking treatment of emission allowances.

20.17(1) *Applicability and purpose.* This rule applies to all rate-regulated utilities providing electric service in Iowa. Under Title IV of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

20.17(2) *Definitions.* The following words and terms, when used in this rule, shall have the meaning indicated below:

“Allowance futures contract” is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

“Allowance option contract” is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

“Auction allowances” are allowances acquired or sold through EPA’s annual allowance auction.

“Boot” means something acquired or forfeited to equalize a trade.

“Direct sale allowances” are allowances purchased from the EPA in its annual direct sale.

“Emission for emission trade” is an exchange of one type of emission for another type of emission. For example, the exchange of SO₂ emission allowances for NO_x emission allowances.

“Fair market value” is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

“Historical cost” is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

“Original cost” is the historical cost of an asset to the person first devoting the asset to public service.

“Statutory allowances” are allowances allocated by the EPA at no cost to affected units under the Acid Rain Program either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

“Vintage trade” is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

20.17(3) *Valuing allowances for ratemaking purposes.*

- a. Statutory allowances. Valued at zero cost to electric utility.
- b. Direct sale allowances. Valued at historical cost.
- c. Auction allowances. Valued at historical cost.
- d. Purchased allowances. Valued at historical cost.

20.17(4) *Valuing allowance inventory accounts.* Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

20.17(5) *Valuing allowances acquired as part of a package.* Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

20.17(6) *Valuing allowances acquired through exchanges.*

a. *Exchanges without boot.* Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. *Exchanges with boot.* Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

20.17(7) *Valuing allowances transferred among affiliates.*

a. Allowances transferred from a utility to a parent or unregulated subsidiary. Allowances shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility. Allowances shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility. Allowances shall be transferred at fair market value.

20.17(8) *Expense recognition and recovery of allowance costs.*

a. *Expense recognition.* Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. *Expense recovery.* The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 199—20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. *Allowance inventory shortage.* If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 199—20.9(476).

20.17(9) *Gains/losses from allowance transactions.* The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

20.17(10) *Allowance futures or option contracts.*

a. *Price hedging.* Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. *Speculation.* Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

20.17(11) *Working capital reserve of allowances.* A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the board deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

20.17(12) *Allowances banked for future use.* Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the board.

20.17(13) *Prudence of allowance transactions.* The prudence of allowance transactions shall be determined by the board in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the board shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 199—20.9(476).

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) *Applicability.* Rule 199—20.18(476,478) is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of rule 199—20.18(476,478) is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric

service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.18(3) General obligations.

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility's transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

g. Any electric utility unable to comply with applicable provisions of rule 199—20.18(476,478) may file a waiver request pursuant to rule 199—1.3(17A,474,476,78GA,HF2206).

20.18(4) Definitions. Terms and formulas when used in rule 199—20.18(476,478) are defined as follows:

“*Customer*” means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

“*Customer average interruption duration index (CAIDI)*” means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

“*Distribution system*” means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

“*Electric utility*” means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the board's jurisdiction.

“*GIS*” means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

“*Interrupting device*” means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated.

Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

“Interruption” means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer’s private property;
5. Interruptions due to hazardous conditions located on the affected customer’s private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer’s equipment; the operation of a customer’s equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

“Interruption duration” as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

“Interruption, momentary” means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

“Interruption, momentary event” means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

“Interruption, scheduled” means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

“Interruption, sustained” means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

“Loss of service” means the loss of electrical power, a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of “interruption.”

“Major event” will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or

4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Metropolitan area*” means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

“*Momentary average interruption frequency index (MAIFI)*” means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

“*OMS*” is a computerized outage management system.

“*Operating area*” means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

“*Outage*” means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

“*Power quality*” means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

“*Rural circuit*” means a circuit not defined as an urban circuit.

“*System average interruption duration index (SAIDI)*” means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

“*System average interruption frequency index (SAIFI)*” means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

“*Total number of customers served*” means the total number of customers served on the last day of the reporting period.

“*Urban circuit*” means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.18(5) Record-keeping requirements.

a. *Required records for electric utilities with over 50,000 Iowa retail customers.*

(1) Each electric utility shall maintain a geospatial information system (GIS) and an outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order

to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction;
 2. Operating area (if any);
 3. Substation;
 4. Circuit;
 5. Number of interruptions in reporting period; and
 6. Number of hours of interruptions in reporting period.
- (2) Records on interruptions shall be sufficient to determine the following:
1. Starting date and time the utility became aware of the interruption;
 2. Duration of the interruption;
 3. Date and time service was restored;
 4. Number of customers affected;
 5. Description of the cause of the interruption;
 6. Operating areas affected;
 7. Circuit number(s) of the distribution circuit(s) affected;
 8. Service account number or other unique identifier of each customer affected;
 9. Address of each affected customer location;
 10. Weather conditions at time of interruption;
 11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
 12. Whether the interruption was planned or unplanned.
- (3) Each electric utility shall maintain as much information as feasible on momentary interruptions.
- (4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.
1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.
 2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.
 3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.
 4. The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.
 5. Utilities may augment the code sets listed above to enhance tracking.
- (5) An electric utility shall retain for seven years the records required by 20.18(5) "a"(1) through (4).
- (6) Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.
- b. Required records for all other electric utilities.*
- (1) Each electric utility, other than those providing only wholesale electric service, shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per customer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other. Those electric utilities that provide only wholesale electric service shall provide their wholesale customers with the information necessary to allow those customers to ascertain the cause of power supply-related outages.
- The category "scheduled" refers to interruptions resulting when a distribution transformer, line, or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.
- The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the "power supplier" category.
- The category "major storm" represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.

The “all other” category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.

(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 1730A-119, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

(3) Each electric utility, other than those providing only wholesale electric service, shall also maintain and record data sufficient to enable it to compute systemwide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with “major storms” and once without.

c. Each electric utility shall make its records of customer interruptions available to the board as needed.

20.18(6) Notification of major events. Notification of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 199—20.19(476,478).

20.18(7) Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers. Each electric utility with over 50,000 Iowa retail customers shall submit to the board and consumer advocate on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. *Description of service area.* Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.

b. *System reliability performance.*

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and update as needed in subsequent reports.

c. *Reporting on customer outages.*

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained

interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

d. Major event summary. For each major event that occurred in the reporting period, the following information shall be provided:

- (1) A description of the area(s) impacted by each major event;
- (2) The total number of customers interrupted by each major event;
- (3) The total number of customer-minutes interrupted by each major event; and
- (4) Updated damage cost estimates to the electric utility's facilities.

e. Information on transmission and distribution facilities.

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. Plans and status report.

(1) A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

1. The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)"g"(1) and 20.18(7)"h"(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate. The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.

2. The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.

3. The plan shall provide an estimate of the timing for achievement of the plan's goals.

(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.

g. Capital expenditure information. Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in 20.18(7)"g"(1).

h. Maintenance. Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in 20.18(7) "h"(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the board in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in 20.18(7) "h"(2) "1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. The annual reliability report, starting with the reliability report for calendar year 2008, shall include the number of poles inspected, the number rejected, and the number replaced.

20.18(8) *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

a. By July 1, 2003, each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan and shall file an informational copy of the plan with the board. The plan shall be updated not less than annually and shall describe the following:

(1) The utility's current reliability programs, including:

1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3) "c";

2. Animal contact reduction programs, if applicable;

3. Lightning outage mitigation programs, if applicable; and

4. Other programs the electric utility may identify as reliability-related.

(2) Current ability to track and monitor interruptions.

(3) How the electric utility plans to communicate its plan with customers/consumer owners.

b. By April 1, 2004, and each April 1 thereafter, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on at least the following:

(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5) "b"(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.

(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8) "a"(1).

20.18(9) *Inquiries about electric service reliability.*

a. For electric utilities with over 50,000 Iowa retail customers. A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer

at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

b. Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.

[ARC 8394B, IAB 12/16/09, effective 1/20/10; ARC 9501B, IAB 5/18/11, effective 6/22/11]

199—20.19(476,478) Notification of outages.

20.19(1) Notification. The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. For all utilities, loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. For utilities with 50,000 or more customers, loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than six hours to 25 percent or more of the utility's customers;

d. A major event as defined in subrule 20.18(4); or

e. Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1) "a" through "d."

20.19(2) Information required.

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the board duty officer by e-mail at dutyofficer@iub.iowa.gov or by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage.

The notice should be supplemented as more complete or accurate information is available.

b. The utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

[ARC 8394B, IAB 12/16/09, effective 1/20/10; Editorial change: IAC Supplement 12/29/10; ARC 9819B, IAB 11/2/11, effective 12/7/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7.

[Filed 7/12/66; amended 6/27/75]

[Filed 12/30/75, Notice 10/6/75—published 1/26/76, effective 3/1/76]

[Filed 1/7/77, Notice 11/3/76—published 1/26/77, effective 3/2/77]

[Filed 9/30/77, Notice 6/29/77—published 10/19/77, effective 11/23/77]

[Filed 10/4/78, Notice 8/23/78—published 11/1/78, effective 12/6/78]

[Filed 11/9/78, Notice 11/2/77—published 11/29/78, effective 1/3/79]

[Filed emergency 12/22/78—published 1/10/79, effective 12/22/78]

[Filed emergency 12/27/78—published 1/10/79, effective 12/27/78]

- [Filed 4/10/79, Notices 5/3/78, 8/23/78—published 5/2/79, effective 6/6/79]
 - [Filed 4/10/79, Notice 11/1/78—published 5/2/79, effective 6/6/79]
 - [Filed 6/8/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]
 - [Filed 6/29/79, Notice 11/1/78—published 7/25/79, effective 8/29/79]
- [Filed 9/26/80, Notice 8/6/80—published 10/15/80, effective 11/19/80]
 - [Filed 1/30/81, Notice 5/14/80—published 2/18/81, effective 7/1/81]
 - [Filed 4/10/81, Notice 6/25/80—published 4/29/81, effective 6/3/81]
 - [Filed 5/18/81, Notice 9/17/80—published 6/10/81, effective 7/15/81]
 - [Filed 6/19/81, Notice 10/1/80—published 7/8/81, effective 8/12/81]
 - [Filed 9/10/81, Notice 2/6/80—published 9/30/81, effective 11/4/81]
- [Filed 10/20/81, Notice 11/26/80—published 11/11/81, effective 12/16/81]
- [Filed emergency 11/17/81 after Notice 9/30/81—published 12/9/81, effective 11/17/81]
 - [Filed emergency 12/14/81—published 1/6/82, effective 12/14/81]
 - [Filed emergency 6/28/82—published 7/21/82, effective 6/28/82]
 - [Filed 9/24/82, Notice 4/28/82—published 10/13/82, effective 11/17/82]
 - [Filed 10/21/82, Notice 8/18/82—published 11/10/82, effective 12/15/82]
 - [Filed 12/3/82, Notice 9/1/82—published 12/22/82, effective 1/26/83]
 - [Filed 1/28/83, Notice 12/8/82—published 2/16/83, effective 3/23/83]
 - [Filed 2/25/83, Notice 12/22/82—published 3/16/83, effective 4/20/83]
 - [Filed 4/11/83, Notice 2/16/83—published 4/27/83, effective 6/1/83]
 - [Filed 4/15/83, Notice 1/19/83—published 5/11/83, effective 6/15/83]
 - [Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]
 - [Filed 9/9/83, Notice 6/8/83—published 9/28/83, effective 11/2/83]
 - [Filed 9/9/83, Notice 6/8/83—published 9/28/83, effective 1/1/84]
 - [Filed 11/4/83, Notice 8/31/83—published 11/23/83, effective 1/1/84]
 - [Filed 12/2/83, Notice 9/28/83—published 12/21/83, effective 1/25/84]
 - [Filed 12/16/83, Notice 9/14/83—published 1/4/84, effective 2/8/84]
 - [Filed 1/13/84, Notice 9/11/83—published 2/1/84, effective 3/7/84]
 - [Filed 1/27/84, Notice 11/23/83—published 2/15/84, effective 3/21/84]¹
 - [Filed 4/9/84, Notice 1/18/84—published 4/25/84, effective 5/30/84]
 - [Filed emergency 4/20/84—published 5/9/84, effective 4/23/84]
 - [Filed 4/20/84, Notice 2/15/84—published 5/9/84, effective 6/13/84]²
 - [Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]
 - [Filed 9/10/84, Notice 2/15/84—published 9/26/84, effective 10/31/84]
 - [Filed 9/10/84, Notice 7/18/84—published 9/26/84, effective 10/31/84]
 - [Filed 9/21/84, Notice 5/23/84—published 10/10/84, effective 11/14/84]
 - [Filed 10/19/84, Notice 8/15/84—published 11/7/84, effective 12/26/84]
 - [Filed 4/19/85, Notice 2/13/85—published 5/8/85, effective 6/12/85]
 - [Filed 5/6/85, Notice 1/2/85—published 5/22/85, effective 6/26/85]
 - [Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
 - [Filed 6/14/85, Notice 4/10/85—published 7/3/85, effective 8/7/85]
 - [Filed 8/9/85, Notice 6/19/85—published 8/28/85, effective 10/2/85]
- [Filed emergency 2/7/86 after Notices 10/9/85, 12/4/85—published 2/26/86, effective 3/31/86]
 - [Filed 3/7/86, Notice 12/4/85—published 3/26/86, effective 4/30/86]
 - [Filed 8/8/86, Notice 5/7/86—published 8/27/86, effective 10/1/86]³
- [Filed 8/22/86, Notices 5/21/86, 6/4/86—published 9/10/86, effective 10/15/86]⁴
 - [Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]
 - [Filed 4/17/87, Notice 12/3/86—published 5/6/87, effective 6/10/87]
 - [Filed 11/13/87, Notice 10/7/87—published 12/2/87, effective 1/6/88]
- [Filed 6/10/88, Notices 4/8/87, 12/30/87, 3/9/88—published 6/29/88, effective 8/3/88]
 - [Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
 - [Filed 12/8/88, Notice 10/19/88—published 12/28/88, effective 2/1/89]

- [Filed 12/22/88, Notice 9/21/88—published 1/11/89, effective 2/15/89]
- [Filed 1/6/89, Notices 7/1/87, 1/13/88, 7/27/88—published 1/25/89, effective 3/1/89]
- [Filed 5/24/89, Notices 5/4/88, 6/29/88, 12/14/88—published 6/14/89, effective 7/19/89]
- [Filed 2/28/90, Notice 11/1/89—published 3/21/90, effective 4/25/90]
- [Filed 9/14/90, Notice 11/29/90—published 10/3/90, effective 11/7/90]
- [Filed 9/28/90, Notice 6/27/90—published 10/17/90, effective 11/21/90]
- [Filed 10/24/90, Notice 3/21/90—published 11/14/90, effective 12/19/90]
- [Filed 12/20/90, Notice 6/27/90—published 1/9/91, effective 2/13/91]
- [Filed 12/21/90, Notice 6/27/90—published 1/9/91, effective 2/13/91]
- [Filed emergency 3/15/91, after Notice 1/23/91—published 4/3/91, effective 3/15/91]
- [Filed 3/28/91, Notice 10/3/90—published 4/17/91, effective 5/22/91]
- [Filed 4/25/91, Notice 12/26/90—published 5/15/91, effective 6/19/91]
- [Filed 11/18/91, Notice 4/17/91—published 12/11/91, effective 1/15/92]
- [Filed 3/20/92, Notice 8/7/91—published 4/15/92, effective 5/20/92]
- [Filed 10/9/92, Notice 4/29/92—published 10/28/92, effective 12/2/92]
- [Filed 7/27/93, Notice 3/3/93—published 8/18/93, effective 9/22/93]
- [Filed 8/11/93, Notice 5/12/93—published 9/1/93, effective 10/6/93]⁵
- [Filed 12/2/93, Notice 9/15/93—published 12/22/93, effective 1/26/94]
- [Filed emergency 4/21/94—published 5/11/94, effective 4/21/94]
- [Filed 6/28/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
- [Filed 10/20/94, Notice 6/22/94—published 11/9/94, effective 12/14/94]
- [Filed 9/4/97, Notice 3/12/97—published 9/24/97, effective 10/29/97]
- [Filed 10/31/97, Notice 5/7/97—published 11/19/97, effective 12/24/97]
- [Published 6/17/98 to update name and address of board]
- [Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]
- [Filed 12/8/99, Notice 4/21/99—published 12/29/99, effective 2/2/00]
- [Filed 5/11/00, Notice 10/6/99—published 5/31/00, effective 7/5/00]
- [Filed 6/22/00, Notice 3/8/00—published 7/12/00, effective 8/16/00]
- [Filed 1/4/01, Notices 3/8/00, 8/23/00—published 1/24/01, effective 2/28/01]
- [Filed emergency 3/30/01—published 4/18/01, effective 3/30/01]
- [Filed 9/14/01, Notice 4/18/01—published 10/3/01, effective 11/7/01]
- [Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]
- [Filed 10/25/02, Notice 3/6/02—published 11/13/02, effective 12/18/02]
- [Filed 12/27/02, Notice 7/24/02—published 1/22/03, effective 2/26/03]
- [Filed 7/3/03, Notice 3/5/03—published 7/23/03, effective 8/27/03]
- [Filed 7/18/03, Notice 2/5/03—published 8/6/03, effective 9/10/03]
- [Filed 8/29/03, Notice 5/14/03—published 9/17/03, effective 10/22/03]
- [Filed 10/24/03, Notices 2/5/03, 4/2/03—published 11/12/03, effective 12/17/03]
- [Filed 11/19/03, Notice 4/2/03—published 12/10/03, effective 1/14/04]
- [Filed 7/30/04, Notice 6/9/04—published 8/18/04, effective 9/22/04]
- [Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
- [Filed 10/8/04, Notice 7/7/04—published 10/27/04, effective 12/1/04]
- [Filed 1/22/07, Notice 11/8/06—published 2/14/07, effective 3/21/07]
- [Filed 4/4/07, Notice 9/13/06—published 4/25/07, effective 5/30/07]
- [Filed 5/2/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]
- [Filed 6/14/07, Notice 12/20/06—published 7/4/07, effective 8/8/07]
- [Filed 12/27/07, Notice 9/26/07—published 1/30/08, effective 3/5/08]
- [Filed 4/16/08, Notice 2/27/08—published 5/7/08, effective 6/11/08]
- [Filed ARC 7584B (Notice ARC 7420B, IAB 12/17/08), IAB 2/25/09, effective 4/1/09]
- [Filed ARC 7962B (Notice ARC 7749B, IAB 5/6/09), IAB 7/15/09, effective 8/19/09]
- [Filed ARC 7976B (Notice ARC 7409B, IAB 12/17/08), IAB 7/29/09, effective 9/2/09]
- [Filed ARC 8394B (Notice ARC 7820B, IAB 6/3/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 9101B (Notice ARC 8858B, IAB 6/16/10), IAB 9/22/10, effective 10/27/10]

[Editorial change: IAC Supplement 12/29/10]

[Filed ARC 9501B (Notice ARC 9394B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

[Filed ARC 9819B (Notice ARC 9614B, IAB 7/13/11), IAB 11/2/11, effective 12/7/11]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

¹ Effective date of 20.3(13) "a," "b," (1), (2), (3), (4), and "c" delayed 70 days by Administrative Rules Review Committee.

² Effective date of 20.4(12), third unnumbered paragraph, delayed seventy days by the Administrative Rules Review Committee.

³ See IAB, Utilities Division.

⁴ Published in Notice portion of IAB 9/10/86; see IAB 10/22/86

⁵ Effective date of 20.4(4) delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 21
SERVICE SUPPLIED BY WATER UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—21.1(476) Application of rules.

21.1(1) Application of rules. The rules apply to any water utility operating within the state of Iowa under the jurisdiction of the Iowa utilities board and are established under Iowa Code chapter 476.

These rules are intended to promote service to the public, provide standards for uniform practices by utilities, and establish a basis for determining the reasonableness of the demands made by the public upon the utilities.

A utility or customer may file for a waiver of these rules in accordance with the provisions of 199—1.3(17A,474,476,78GA,HF2206).

These rules shall not relieve a utility from its duties under the laws of this state.

21.1(2) Authorization of rules. Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just, and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of this law.

199—21.2(476) Records and reports.

21.2(1) Location and retention of records. Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

21.2(2) Tariffs. The utility shall maintain its tariff filing in a current status.

The schedules of rates and rules of all rate-regulated utilities shall be filed with the board.

The form, identification and content of tariffs shall be in accordance with these rules.

a. Form and identification.

(1) The tariff shall be printed, typewritten or otherwise reproduced on 8½ × 11 inch sheets so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding.

(2) The title page of every tariff and supplement shall specify the following:

1. The first page shall be the title page, which will show:

Name of Public Utility

Water Tariff

Filed With

The Iowa Utilities Board

2. When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced; for example:

Tariff No. _____
Supersedes Tariff No. _____

3. When a new part of a tariff revises, amends, or eliminates an existing part of a tariff, it shall so state and identify the part revised, amended or eliminated.

4. Any tariff modifications, as defined in “3” above, replacing tariff sheets shall be marked in the right margin with symbols as described below to indicate the place, nature and extent of the change in text:

Symbol	Meaning
(C)	A change in regulation.
(D)	A discontinued or deleted rate, treatment or regulation.
(I)	An increased rate or new treatment resulting in increased rate.
(N)	A new rate, treatment or regulation.
(R)	A reduced rate or new treatment resulting in a reduced rate.
(T)	A change in text but no change in rate, treatment or regulation.

- (3) All sheets except the title page shall have, in addition to the above requirements, the issue date.
(4) All sheets except the title page shall have the following form:

(Company Name)	(Part Identification)
Water Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective Date:
	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date is to be left blank by the utility and shall be determined by the board. The utility may propose an effective date.

b. Content of tariffs. A tariff filed with the board shall contain:

(1) Table of contents.

(2) Rates, including all rates of utilities subject to rate regulation for service with indication for each rate of the type of water service and the class of customers to which each rate applies. There shall also be shown the prices per unit of service, and the number of units per billing period to which the prices apply, the period of billing, the minimum bill, method of measuring demands and consumptions, including method of calculating or estimating loads or minimums, and any special terms and conditions applicable. There shall be specified any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid, and both shall be in accordance with subrule 21.4(4).

199—21.3(476) General service requirements.

21.3(1) Disposition of water.

a. Metered measurement of water. All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

(1) Temporary service where the water use can be readily estimated.

(2) Public and private fire protection service.

(3) Water used for street sprinkling and sewer flushing.

b. Separate metering for premises. Separate premises shall be separately metered and billed. Submetering shall not be permitted.

21.3(2) Temporary service. When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) Meter requirements.

a. Meter installation. Each water utility shall adopt a written standard method of meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. Records of meters and associated metering devices. Each utility shall maintain for each meter and associated metering device the following applicable data.

(1) *Meter identification.*

1. Manufacturer.
2. Meter type, catalog number and serial number.
3. Meter capacity, multiplier and constants.
4. Unit registration measures (gallons or cubic feet).
5. Number of moving digits or dials in register.
6. Number of stationary or pointed zeros on register.
7. Pressure rating of the meter.

(2) *Meter location history.*

1. Dates of installation and removal from service.
2. Location of installations.
3. All customer names with readings and read out dates (Remote register readings shall be maintained identical to readings of the meter register).

c. Registration devices for meters. Where a constant or multiplier is necessary to determine the meter reading, it shall be indicated on the face of the meter. Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. Meter readings.

(1) *Meter reading interval.* Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

The utility may permit the customer to supply the meter readings on a form supplied by the utility, or in the alternative, may permit the customer to supply the meter reading information by telephone, provided a utility representative reads the meter at least once every 24 months and when there is a change of customer.

(2) *Readings and estimates in unusual situations.* When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills shall be prorated on a daily basis.

An estimated bill may be rendered in the event that access to meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.3(4) Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.3(5) Extensions to customers.

a. Definitions. The following definitions shall apply to the terms used in this rule:

"Advances for construction costs," as used in these subrules, are cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period," as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction," as used in these subrules, means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash

payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Customer advances for construction records,” as used in this subrule, means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project or work order the extension was installed on.

“Estimated annual revenues,” as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

“Estimated construction costs,” as used in this subrule, shall be calculated using average costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the extension, size, location and characteristics of the extension, including all appurtenances; and whether or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

“Extensions” means a distribution main extension.

“Similarly situated customer” is a customer whose annual consumption or service requirements, as defined by estimated annual revenue, is similar to other customers with approximately the same annual consumption or service requirements.

“Utility,” as used in these subrules, means a rate-regulated utility.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) Plant additions. The utility will provide all water plants at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) Advances for construction costs for distribution main extensions for customers who will attach within 30 days. Where the customer will attach within 30 days after completion of the distribution main extension, the following shall apply:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the main extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer no more than 30 days prior to commencement of construction.

(3) Advances for construction costs for distribution main extensions for customers who will not attach within the agreed-upon attachment period. Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the

extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

Advance payments for plant additions or extensions which are subject to refund for a ten-year period may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the distribution main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of three times estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of three times estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal three times estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. Extensions not required. Utilities shall not be required to make extensions as described in this rule, unless the extension shall be of a permanent nature.

e. Extensions permitted. This rule shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

This rule shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in 21.5(1) and 21.5(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with 21.3(5) "c." The utility shall be responsible for the operation and maintenance of the extension after attachment.

If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) Service connections. In urban areas with well-defined streets, the utility shall control (supervise the installation and maintenance of) that portion of the service pipe from its main to and

including the customer's meter. A curb stop shall be installed at a convenient place between the property line and the curb. All services shall include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve, and are installed between property line and curb, no separate curb stop and curb box is required.

21.3(7) Location of meters. Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. Outside. Meters installed out-of-doors shall be readily accessible for maintenance and reading and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. Inside. Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

199—21.4(476) Customer relations.

21.4(1) Customer information. Each utility shall:

a. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility are available for public inspection.

b. Maintain up-to-date maps, plans, or records of its entire water system.

c. Upon request, assist the customer or proposed customers in selecting the most economic rate schedule available for the proposed type of service.

d. Upon request, inform its customers as to the method of reading meters and the method of computing the customer's bill.

e. Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

f. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 1-877-565-4450, by writing 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.4(2) Customer deposits.

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit shall not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days

from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

21.4(3) Customer bill forms. The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered when applicable.

c. Identification of the applicable rate schedule.

d. The gross and net amount of the bill.

e. The delayed payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill.

21.4(4) Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

A rate-regulated utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period.

The company rules shall state how the customer is notified the eligibility has been used.

21.4(5) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 21.4(6), but not less than three years.

21.4(6) Adjustment of bills. Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half

the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in 21.4(6) "a" unless otherwise ordered by the board.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.4(7) Refusal or disconnection of service. Service may be refused or discontinued only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued.

- a.* Without notice in the event of an emergency.
- b.* Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.
- c.* For violation of or noncompliance with the utility's rules on file with the board.
- d.* For failure of the customer to permit the utility reasonable access to its equipment.
- e.* For nonpayment of bill provided that the utility has: (1) Made a reasonable attempt to effect collection; (2) Given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

f. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.

21.4(8) Reconnection and charges. In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(9) Insufficient reasons for denying service. The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

- a.* Nonpayment for service by someone who is no longer an occupant of the premises to be served, except in cases of immediate family occupation or cohabitation of adults at the premises.
- b.* Failure to pay the bill of another customer as guarantor thereof.
- c.* Failure to pay for a different type or class of public utility service.

21.4(10) Customer complaints. A “complaint” shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

[Editorial change: IAC Supplement 12/29/10]

199—21.5(476) Engineering practice.

21.5(1) Requirement of good engineering practice. The design and construction of the utility’s water plant shall conform to good standard engineering practice.

21.5(2) Inspection of water plant. Each utility shall adopt and follow a program of inspection of its water plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility’s experience and accepted good practice.

199—21.6(476) Meter testing.

21.6(1) Periodic and routine tests. Each utility shall adopt schedules approved by the board for periodic and routine tests and repair of its meters.

21.6(2) Meter test facilities and equipment. Each utility furnishing metered water service shall provide the necessary standard facilities, instruments and other equipment for testing its meters, or mail for test of its meters by another utility or agency equipped to test meters subject to approval by the board.

21.6(3) Accuracy requirements. All meters used for measuring quantity of water delivered to a customer shall be in good mechanical condition. All meters shall be accurate to the following standards:

a. Test flow limits. For determination of minimum test flow and normal test flow limits, the company will use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. Accuracy limits. A meter shall not be placed in service if it registers less than 95 percent of the water passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) Initial test and storage of meters. Every water meter shall be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter shall be tested immediately before installation.

21.6(5) As found tests. To determine the average meter error in accordance with these rules for periodic or complaint tests, meters shall be tested in the condition as found in the customer’s service. Tests shall be made at intermediate and maximum rates of flow and the meter error shall be the algebraic average of the errors of the two tests.

21.6(6) Request tests. A utility shall test any water meter upon written request of a customer. The utility will not be required to perform request tests more than once each 18 months. The customer shall be given the opportunity to be present at the request tests.

21.6(7) Board-ordered tests. The board shall order tests of meters as follows:

a. Application. Upon written application to the board by a customer or a utility, a test shall be made of the customer’s meter as soon as practicable.

b. Guarantee. The application shall be sent by certified or registered mail and accompanied by a certified check or money order made payable to the utility in the amount indicated below:

- | | |
|--|------|
| (1) Capacity of 80 gallons per minute or less | \$24 |
| (2) Capacity over 80 gallons, up to 120 gallons per minute | \$26 |
| (3) Capacity of over 120 gallons per minute | \$30 |

c. Conduct of test. On receipt of a request from a customer, the board shall forward the deposit to the utility and notify the utility of the requirement for the test. The utility shall not knowingly remove or adjust the meter until tested. The utility shall furnish all instruments, load devices and other facilities necessary for the test and shall perform the test and shall furnish verification of the accuracy of test instruments used.

d. Test results. If the tested meter is found to overregister to an extent requiring a refund under the provisions of 21.4(6) "a," the amount paid to the utility shall be returned to the customer by the utility.

e. Notification. The utility shall notify the customer in advance of the date and time of the board-ordered test.

f. Utility report. The utility shall make a written report of the results of test which shall be sent to the customer and to the board.

21.6(8) Sealing of meters. Upon completion of adjustment and test of any water meter the utility shall place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) Record of meter tests. Meter test records shall include:

a. The date and reason for the test.

b. The meter reading prior to any test.

c. The accuracy as found at each of the flow rates required by 21.6(3) "a."

d. The accuracy as left at each of the flow rates required by 21.6(3) "a."

e. Statement of any repairs.

f. If the meter test is made using a standard meter, the utility shall retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards' volumetric standardization.

The test records of each meter shall be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter's retirement, if any, shall be retained for a minimum of three years.

199—21.7(476) Standards of quality of service.

21.7(1) Pressures. Under normal condition of water usage the pressure (pound per square inch gauge) at a customer's service line shall be not less than 25 PSIG and not more than 125 PSIG.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey shall be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. Survey should be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys shall show the date and time of beginning and end of the test, and the test location. Records of these pressure surveys shall be maintained at the utility's principal office in the state and made available to the board upon request.

21.7(2) Interruption of supply.

a. A utility shall make a reasonable effort to prevent interruptions of service. When an emergency interruption occurs the utility shall reestablish service with the shortest possible delay consistent with the safety to its customers and the general public. If an emergency interruption affects fire protection service, the utility shall immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions should be scheduled at hours which create the least inconvenience to the customer.

c. A utility shall retain records of interruptions for a period of at least five years.

21.7(3) Supply shortage. The utility shall attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water, it shall notify its customers, and give the board notice, before the restriction becomes effective. The notification shall specify:

(1) The reason for the restriction.

(2) The nature and extent of the restriction.

- (3) The effective date of the restriction.
- (4) The probable date of termination of the restriction.
- b.* During the times of threatened or actual water shortage, the utility shall equitably apportion its available water supply among its customers.

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) *Definition.* For purposes of these rules, “water costs for fire protection service” shall be defined as all or a part of the utility’s costs of fire hydrants and other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility’s current tariff for public fire protection water service.

21.8(2) *Utility requirements.* A rate-regulated utility which provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) shall provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) *Application contents.* Any city filing an application with the board requesting inclusion of all or a part of the water costs for fire protection service in a rate-regulated utility’s rates or charges to customers covered by the city’s fire protection service shall submit, at the time the application is filed, the following information with supporting testimony:

- a.* A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility’s current tariff, if the costs for fire protection water service are included in rates charged to affected customers;
- b.* Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;
- c.* The current number of utility customers served within the city’s corporate limits, by customer class, with an affidavit from the utility verifying the information;
- d.* A map illustrating both (1) the city’s corporate limits, and (2) the portion of the utility’s customer service area within the city’s corporate limits, with an affidavit from the utility verifying the customer service area;
- e.* An affidavit from the utility showing that the notice required by Iowa Code section 476.6(18) “c” and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) *Customer notification.*

a. Prior approval. The city shall submit to the board for its approval, not less than 30 days before providing notification to affected customers, ten copies of the proposed notice.

b. Required content of notification. The notice shall advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, and the percentage increase by customer class. It shall advise customers that the city is requesting the increase and that they have a right to file with the board a written objection to the proposed increase and to request a public hearing. It shall also include a written explanation of the reason for the increase.

c. Notice of deficiencies. Within 30 days of the filing of the proposed notice, the city shall be notified of either the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. Distribution. The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice. The city shall direct the utility either to (1) include the notice with the utility’s next regularly scheduled mailing to the affected customers; or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city shall pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. Delivery. The written notice to affected customers shall be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) Procedure.

a. Service of application. The applicant shall file an original plus ten copies of the application with the executive secretary's office, serve two copies of the application on the public utility and serve two copies on the consumer advocate division of the Iowa department of justice.

b. Docketing. Within 30 days of the filing of the application, the board shall either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

c. Rules. If the case is docketed as a formal proceeding, the rules in 199—Chapter 7, if not inconsistent, shall apply.

d. Decision. The board shall render its decision within six months of the date of the application. If the application is approved, the board shall order the rate-regulated utility providing the water service to the city to file tariffs implementing the board's decision. The utility shall include annually a bill insert explaining to customers that they are being charged for water-related fire protection costs. The city shall pay all costs incurred by the utility to file and implement the required tariff.

199—21.9(476) Incident reports. A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by calling the board duty officer at (515)745-2332 or by e-mail at dutyofficer@iub.iowa.gov. The caller shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.

[ARC 1359C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1, 476.2, 476.6(18), 476.8, and 546.7.

[Filed 6/11/68; amended 6/27/75]

[Filed 9/30/77, Notice 6/9/77—published 10/19/77, effective 11/23/77]

[Filed emergency 6/28/82—published 7/21/82, effective 6/28/82]

[Filed 9/24/82, Notice 4/28/82—published 10/13/82, effective 11/17/82]

[Filed 10/21/82, Notice 8/18/82—published 11/10/82, effective 12/15/82]

[Filed 2/25/83, Notice 12/22/82—published 3/16/83, effective 4/20/83]

[Filed 1/27/84, Notice 11/23/83—published 2/15/84, effective 3/21/84]¹

[Filed 4/9/84, Notice 1/18/84—published 4/25/84, effective 5/30/84]

[Filed 9/21/84, Notice 5/23/84—published 10/10/84, effective 11/14/84]

[Filed 9/21/84, Notice 7/18/84—published 10/10/84, effective 11/14/84]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 2/28/90, Notice 11/1/89—published 3/21/90, effective 4/25/90]

[Filed 8/31/90, Notice 4/4/90—published 9/19/90, effective 10/24/90]

[Filed 9/14/90, Notice 11/29/89—published 10/3/90, effective 11/7/90]

[Filed 3/28/91, Notice 10/3/90—published 4/17/91, effective 5/22/91]

[Filed 8/11/93, Notice 5/12/93—published 9/1/93, effective 10/6/93]²

[Filed emergency 4/21/94—published 5/11/94, effective 4/21/94]

[Published 6/17/98 to update name and address of board]

[Filed 12/8/99, Notice 4/21/99—published 12/29/99, effective 2/2/00]

[Filed 10/24/03, Notices 2/5/03, 4/2/03—published 11/12/03, effective 12/17/03]

[Filed 12/27/07, Notice 9/26/07—published 1/30/08, effective 3/5/08]

[Editorial change: IAC Supplement 12/29/10]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

¹ Effective date of 21.3(12) "a," "b"(1) and (3), and "e" delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 21.4(2)“e” delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 25
IOWA ELECTRICAL SAFETY CODE
[Prior to 10/8/86, Commerce Commission[250]]

199—25.1(476,476A,478) General information.

25.1(1) Authority. The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) Purpose. The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and shall supersede all conflicting rules of any such utility. This rule shall in no way relieve any utility from any of its duties under the laws of this state.

25.1(3) Definition of utility. For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the board.
[ARC 9501B, IAB 5/18/11, effective 6/22/11]

199—25.2(476,476A,478) Iowa electrical safety code defined. The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the “Iowa Electrical Safety Code.”

25.2(1) National Electrical Safety Code. The American National Standards Institute (ANSI) C2-2012, “National Electrical Safety Code” (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.

25.2(2) Modifications and qualifications to ANSI C2. The standards set forth in ANSI C2 are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code. NESC 013A2 is modified to read as follows: “Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

- “1. Qualified supervision is provided,
- “2. Equivalent safety is provided,
- “3. On joint-use facilities, all joint users are notified in a timely manner, and
- “4. Prior approval is obtained from the Iowa utilities board.”

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 which are greater than otherwise required by these rules, the statutory clearances shall prevail.

(2) The following clearances shall apply to all lines regardless of date of construction: NESC 232, vertical clearances for “Water areas not suitable for sailboating or where sailboating is prohibited,” “Water areas suitable for sailboating . . .,” and “Established boat ramps and associated rigging areas . . .”; and NESC 234E, “Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement.”

(3) Table 232-1, Footnote 21, is changed to read: “Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit shall govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used.”

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2012 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2012 editions of the NESC.)

c. Reserved.

d. Rule 217C.1 is changed to read:

“The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility’s inspection and maintenance plan.”

e. There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent “Warning” or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule shall apply to all signs placed or replaced after June 18, 2003.

f. There is added to the first paragraph of Rule 110.A.1, after the sentence stating, “Entrances not under observation of an authorized attendant shall be kept locked,” the following sentences:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and must also be latched or fastened if there is a gate-latching mechanism.

g. Lines crossing railroad tracks shall comply with the additional requirements of 199 IAC 42.6(476), “Engineering standards for electric and communications lines.”

25.2(3) Grain bins.

a. Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the “Errata to 2012 Edition National Electrical Safety Code” Correction Sheet issued February 6, 2012.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI) C2-2012 “National Electrical Safety Code,” Rule 234F. This paragraph “*b*” shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

25.2(4) General rules.

a. Joint-use construction. Where it is mutually agreeable between an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. Lines. In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load which it is required to carry. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

25.2(5) Other references adopted.

a. The “National Electrical Code,” ANSI/NFPA 70-2011, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in 661—504.1(103).

b. “The Lineman’s and Cableman’s Handbook,” Twelfth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the “National Electrical Safety Code” or “National Electrical Code,” and for developing the inspection and maintenance plans required by 199—25.3(476,478).

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) Filing of plan. Each electric utility shall adopt and file with the board a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair, and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) Annual report. Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection plan or a detailed statement on areas of noncompliance.

25.3(3) Contents of plan. The inspection plan shall include the following elements:

a. *General.* A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. *Inspection of lines, poles, and substations.*

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility’s electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. *Tree trimming or vegetation management plan.*

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility’s electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. *Pole inspections.* Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

25.3(4) Records. Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation

inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action is completed or until all necessary repairs and maintenance are completed, whichever is longer.

25.3(5) Guidelines. Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and “The Lineman’s and Cableman’s Handbook” are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2013, “Pruning,” and Section 35 of “The Lineman’s and Cableman’s Handbook” are suggested as guides for tree trimming practices.

[ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—25.4(476,478) Correction of problems found during inspections and pole attachment procedures.

25.4(1) Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

25.4(2) To ensure the safety of pole attachments to poles owned by utilities in Iowa, this subrule establishes requirements for attaching electric lines, communications lines, cable systems, video service lines, data lines, wireless antennae and other wireless facilities, or similar lines and facilities that are attached to the excess space on poles owned by utilities.

a. Definitions. The following definitions shall apply to this rule.

“*Pole*” means any pole owned by a utility that carries electric lines, communications lines, cable systems, video service lines, data service lines, wireless antennae or other wireless facilities, or similar lines and facilities.

“*Pole attachment*” means any electric line, communication circuit, cable system, video service line, data service line, antenna and other associated wireless equipment, or similar lines and facilities attached to a pole or other supporting structure subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

“*Pole occupant*” means any electric utility, telecommunications carrier, cable system provider, video service provider, data service provider, wireless service provider, or similar person or entity that constructs, operates, or maintains pole attachments as defined in this chapter.

“*Pole owner*” means a utility that owns poles subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

b. Compliance with Iowa electrical safety code. Pole attachments to poles shall be constructed, installed, operated, and maintained in compliance with the Iowa electrical safety code, 199—25.2(476,476A,478), and the requirements and procedures established in this subrule.

c. Requests for access to poles; exceptions for service drops and overlashing.

(1) A pole owner shall provide nondiscriminatory access to poles it owns, to the extent required by federal or state law. Requests for access to poles by an electric utility, telecommunications carrier, cable system operator, video service provider, data service provider, wireless service provider, or similar person or entity shall be made in writing or by any method as may be agreed upon by the pole owner and the person or entity requesting access to the pole. If access is denied, the pole owner shall explain in detail the specific reason for denial and how the denial relates to reasons of lack of capacity, safety, reliability, or engineering standards.

(2) Service drops are not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Instead, pole occupants shall provide notice to pole owners within 30 days of the installation of a new service drop, unless the pole occupant and pole owner have negotiated a different notification requirement.

(3) Overlapping of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Pole occupants shall provide notice to pole owners of proposed overlapping at least 7 days prior to installation of the overlapping, unless the pole occupant and pole owner have negotiated a different notification requirement.

d. Notification of violation. A pole owner shall notify in writing a pole occupant of an alleged violation of the Iowa electrical safety code by a pole attachment owned by the pole occupant or may provide notice by another method as may be agreed upon by the parties to a pole attachment agreement. The notice shall include the address and pole location where the alleged violation occurred, a description of the alleged violation, and suggested corrective action.

e. Corrective action.

(1) Upon receipt of notification from a pole owner that the pole occupant has one or more pole attachments in violation of the Iowa electrical safety code, the pole occupant shall respond to the pole owner within 60 days in writing or by another method as may be agreed upon by the pole occupant and the pole owner. The response shall provide a plan for corrective action, state that the violation has been corrected, indicate that the pole attachment is owned by a different pole occupant, or indicate that the pole occupant disputes that a violation has occurred. The violation shall be corrected within 180 days of the date notification is received unless good cause is shown for any delay in taking corrective action. A disagreement that a violation has occurred, a claim that correction is not possible within the specific time frames due to events beyond the control of the pole occupant, or a claim that a different pole occupant is responsible for the alleged violation will be considered good cause to extend the time for taking corrective action. The pole occupant and pole owner may also agree to an extension of the time for taking corrective action. The pole owner and pole occupant shall cooperate in determining the cause of a violation and an efficient and cost-effective method of correcting a violation.

(2) If the violation could reasonably be expected to endanger life or property, the pole occupant shall take the necessary action to correct, disconnect, or isolate the problem immediately upon notification. If immediate corrective action is not taken by the pole occupant for a violation that could reasonably be expected to endanger life or property, the pole owner may take the necessary corrective action and the pole occupant shall reimburse the pole owner for the actual cost of any corrective measures. If the pole owner is later determined to have caused the violation and the pole occupant has taken corrective action, the pole owner shall reimburse the pole occupant for the actual cost of the corrective action. Disputes concerning the ownership of the pole attachment should be resolved as quickly as possible.

f. Negotiated resolution of disputes. Parties to disputes over alleged violations of the Iowa electrical safety code, the cause of a violation, the pole occupant responsible for the violation, the cost-effective corrective action, or any other dispute regarding the provisions of subrule 25.4(2) shall attempt to resolve disputes through good-faith negotiations. Parties may file an informal complaint with the board pursuant to 199—Chapter 6 as part of negotiations.

g. Complaints. Complaints concerning the requirements or procedures established in subrule 25.4(2), including alleged violations of the Iowa electrical safety code, may be filed with the board by pole owners or pole occupants pursuant to the complaint procedures in 199—Chapter 6.

h. Civil penalties. Persons found to have violated the provisions of subrule 25.4(2) may be subject to civil penalties pursuant to Iowa Code section 476.51 or to other action by the board.

[ARC 1259C, IAB 1/8/14, effective 2/12/14]

199—25.5(476,478) Accident reports. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.

25.5(1) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

25.5(2) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

- a. An employee or other person coming in contact with energized electrical facilities which results in death or personal injury necessitating in-patient hospitalization.
- b. Estimated property damage of \$15,000 or more to the property of the utility and others.
- c. Any other incident considered significant by the company.

25.5(3) The board shall be notified by telephone immediately, or as soon as practical thereafter, by calling the board duty officer at (515)745-2332 or by e-mail to dutyofficer@iub.iowa.gov. The caller shall leave a telephone number of a person who can provide the following information:

- a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.
- e. Initial estimate of damages.
- f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.
- g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

[Editorial change: IAC Supplement 12/29/10; **ARC 1359C**, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code chapter 478.

[Filed 4/10/79, Notices 5/3/78, 8/23/78—published 5/2/79, effective 6/6/79]

[Filed 11/19/82, Notice 9/1/82—published 12/8/82, effective 1/12/83]

[Filed 1/28/83, Notice 12/8/82—published 2/16/83, effective 3/23/83]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 11/18/91, Notice 4/17/91—published 12/11/91, effective 1/15/92]

[Filed 7/15/92, Notice 12/11/91—published 8/5/92, effective 9/9/92][◇]

[Filed 10/20/94, Notice 6/22/94—published 11/9/94, effective 12/14/94]

[Filed 10/31/97, Notice 5/7/97—published 11/19/97, effective 12/24/97]

[Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]

[Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]

[Filed 10/25/02, Notice 3/6/02—published 11/13/02, effective 12/18/02]

[Filed 4/24/03, Notice 12/11/02—published 5/14/03, effective 6/18/03]

[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]

[Filed 5/2/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 6/14/07, Notice 12/20/06—published 7/4/07, effective 8/8/07]

[Filed 12/27/07, Notice 9/26/07—published 1/30/08, effective 3/5/08]

[Filed ARC 7962B (Notice ARC 7749B, IAB 5/6/09), IAB 7/15/09, effective 8/19/09]

[Editorial change: IAC Supplement 12/29/10]

[Filed ARC 9501B (Notice ARC 9394B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

[Filed ARC 1259C (Notice ARC 0784C, IAB 6/12/13), IAB 1/8/14, effective 2/12/14]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

[◇] Two or more ARCs

CHAPTER 45
ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

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

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

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

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

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

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

“Board” means the Iowa utilities board.

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

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

“Certificate of completion” means the Standard Certificate of Completion in Appendix B (199—45.15(476)) that contains information about the interconnection equipment to be used, its installation, and local inspections.

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

“Distributed generation facility” means a qualifying facility or an AEP facility.

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

“Draw-out type circuit breaker” means a switching device capable of making, carrying and breaking currents under normal and abnormal circuit conditions such as those of a short circuit. A draw-out type circuit breaker can be physically removed from its enclosure creating a visible break in the circuit. The draw-out type circuit breaker shall be capable of being locked in the open, drawn-out position.

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

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

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

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

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

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

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

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

“*Interconnection study*” is any study described in rule 199—45.11(476).

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

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

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

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

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA) regulations. See 29 CFR 1910.7 as amended through April 9, 2014. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

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

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

“*Primary line*” means an electric distribution system line operating at greater than 600 volts.

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

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

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

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

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

“*Shared transformer*” means a transformer that supplies secondary voltage to more than one customer.

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

“*Standard distributed generation interconnection agreement*” means the Standard Distributed Generation Interconnection Agreements in Appendix A (199—45.14(476)) and Appendix D (199—45.17(476)) applicable to interconnection requests for distributed generation facilities.

“*UL Standard 1741*” means the standard titled “Inverters, Converters, and Controllers for Use in Independent Power Systems,” January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

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

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

[ARC 8859B, IAB 6/16/10, effective 7/21/10; ARC 1359C, IAB 3/5/14, effective 4/9/14]

199—45.2(476) Scope.

45.2(1) This chapter applies to utilities, and distributed generation facilities seeking to operate in parallel with utilities, provided the facilities are not subject to the interconnection requirements of the Federal Energy Regulatory Commission (FERC), the Midwest Independent Transmission System Operator, Inc. (MISO), or the Mid-Continent Area Power Pool (MAPP).

45.2(2) If the nameplate capacity of the facility is greater than 10 MVA, the interconnection customer and the utility shall start with the Level 4 review process and agreements under rules 199—45.11(476), 199—45.17(476), 199—45.18(476), 199—45.19(476), and 199—45.20(476), and modify the process and agreements as needed by mutual agreement. In addition, the interconnection customer and the utility shall start with the technical standards under rule 199—45.3(476) and modify the standards as needed by mutual agreement. If the interconnection customer and the utility cannot reach mutual agreement, the interconnection customer may seek resolution through the rule 199—45.12(476) dispute process.

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

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

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

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

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

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

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

c. National Electrical Code, ANSI/NFPA 70-2008.

45.3(2) Interconnection facilities.

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

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

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

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

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

45.3(4) Inspections. The operator of the distributed generation facility shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 45.3(2) for inspection and testing.

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

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

199—45.4(476) Interconnection requests.

45.4(1) Applicants seeking to interconnect a distributed generation facility shall submit an interconnection request to the utility that owns the electric distribution system to which interconnection is sought. Applicants shall use interconnection request forms approved by the board.

45.4(2) Utilities shall specify the fee by level that the applicant shall remit to process the interconnection request. The fee shall be specified in the interconnection request forms. Utilities may charge a fee by level that applicants must remit in order to process an interconnection request. The utilities shall not charge more than the fees specified in the Standard Application Forms in Appendix A (199—45.14(476)) and Appendix C (199—45.16(476)).

45.4(3) Interconnection requests may be submitted electronically, if agreed to by the parties.
[ARC 8859B, IAB 6/16/10, effective 7/21/10]

199—45.5(476) General requirements.

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

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

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

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

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

45.5(6) When an applicant is not currently a customer of the utility at the proposed site, the applicant shall provide, upon utility request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract.

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

45.5(8) Any metering required for a distributed generation interconnection shall be installed, operated, and maintained in accordance with the utility's metering rules filed with the board under 199—subrule 20.2(5), and inspection and testing practices adopted under rule 199—20.6(476). Any such metering requirements shall be identified in the Standard Distributed Generation Interconnection Agreement executed between the interconnection customer and the utility.

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

45.5(10) The utility may require a witness test after the distributed generation facility is constructed. The applicant shall provide the utility with at least 15 business days' notice of the planned commissioning test for the distributed generation facility. The applicant and utility shall schedule the witness test at a mutually agreeable time. If the witness test results are not acceptable to the utility, the applicant shall be granted 30 business days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the utility and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the utility;

subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the utility's satisfaction, the interconnection request shall be deemed withdrawn. Even if the utility or an entity approved by the utility does not witness a commissioning test, the applicant remains obligated to satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547, Section 5. The applicant shall, if requested by the utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

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

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

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

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

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

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

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

45.6(2) Lab-certified interconnection equipment shall not require further design testing or production testing, as specified by IEEE Standard 1547, Sections 5.1 and 5.2, or additional interconnection equipment modification to meet the requirements for expedited review; however, nothing in this subrule shall preclude the need for an interconnection installation evaluation, commissioning tests, or periodic testing as specified by IEEE Standard 1547, Sections 5.3, 5.4, and 5.5, or for a witness test conducted by a utility.

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

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

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

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

b. The distributed generation facility has a nameplate capacity rating of 10 kVA or less; and

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

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

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

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

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

b. The nameplate capacity rating is 2 MVA or less; and

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

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

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

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

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

- (1) The applicant has filed a Level 3 application; and
- (2) The nameplate capacity rating of the distributed generation facility is 50 kVA or less; and
- (3) The proposed distributed generation facility uses a lab-certified inverter-based equipment package; and
- (4) The distributed generation facility will use reverse power relays or other protection functions that prevent the export of power into the area network; and
- (5) The aggregate of all generation on the area network does not exceed the lower of 5 percent of an area network's maximum load or 50 kVA; and
- (6) No construction of facilities by the utility shall be required to accommodate the distributed generation facility.

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

- (1) The applicant has filed a Level 3 application; and
- (2) The aggregated total of the nameplate capacity ratings of all of the generators on the circuit, including the proposed distributed generation facility, is 10 MVA or less; and
- (3) The distributed generation facility will use reverse power relays or other protection functions that prevent power flow onto the electric distribution system; and
- (4) The distributed generation facility is not served by a shared transformer; and
- (5) No construction of facilities by the utility on its own system shall be required to accommodate the distributed generation facility.

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

- a.* The applicant has filed a Level 4 application; and
- b.* The nameplate capacity rating of the small generation facility is 10 MVA or less; and
- c.* Not all of the interconnection equipment or distributed generation facilities being used for the application are lab-certified.

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

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

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

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

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

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

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

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

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

a. The applicant shall submit an interconnection request using the appropriate Standard Application Form in Appendix A (199—45.14(476)) along with the Level 1 application fee.

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

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

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

e. Otherwise, the utility shall approve the interconnection request and provide to the applicant a signed version of the standard "Conditional Agreement to Interconnect Distributed Generation Facility" in Appendix A (199—45.14(476)) subject to the following conditions:

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

(2) The Standard Certificate of Completion in Appendix B (199—45.15(476)) has been returned to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities;

(3) The witness test has either been successfully completed or waived by the utility in accordance with Section (2)(c)(ii) of the Terms and Conditions for Interconnection in Appendix A (199—45.14(476)); and

(4) The applicant has signed the standard "Conditional Agreement to Interconnect Distributed Generation Facility" in Appendix A (199—45.14(476)). When an applicant does not sign the agreement within 30 business days after receipt of the agreement from the utility, the interconnection request is deemed withdrawn unless the applicant requests to have the deadline extended for no more than 15 business days. An initial request for extension shall not be denied by the utility, but subsequent requests may be denied.

f. If a distributed generation facility is not approved under a Level 1 review, and the utility's reasons for denying Level 1 status are not subject to dispute, the applicant may submit a new interconnection request for consideration under Level 2, Level 3, or Level 4 procedures.

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

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

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

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

b. For interconnection of a proposed distributed generation facility within a spot network, the proposed distributed generation facility must be inverter-based and use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal utility operations, remain above 1 percent of the network's maximum load over the past year, or will

remain above a point reasonably set by the utility in good faith. At the utility's discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

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

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

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

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

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

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

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

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

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

a. The applicant submits an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 2 application fee.

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

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

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

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

- (1) Evaluate the interconnection request using the Level 2 screening criteria; and
- (2) Provide the applicant with the utility's evaluation, including a written technical explanation.

If a utility does not have a record of receipt of the interconnection request and the applicant can demonstrate that the original interconnection request was delivered, the utility shall complete the evaluation of the interconnection request within 20 business days after applicant's demonstration.

45.9(3) When a utility determines that the interconnection request passes the Level 2 screening criteria, or the utility determines that the distributed generation facility can be interconnected safely and will not cause adverse system impacts, even if it fails one or more of the Level 2 screening criteria, it shall provide the applicant with the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) within three business days of the date the utility makes its determination.

45.9(4) Within 35 business days after issuance by the utility of the Standard Distributed Generation Interconnection Agreement, the applicant shall sign and return the agreement to the utility. If the applicant does not sign and return the agreement within 35 business days, the interconnection request shall be deemed withdrawn unless the applicant requests a 15-business-day extension in writing before the end of the 35-day period. The initial request for extension may not be denied by the utility. When the utility conducts an additional review under the provisions of subrule 45.9(6), the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the Standard Distributed Generation Interconnection Agreement.

45.9(5) The Standard Distributed Generation Interconnection Agreement is not final until:

- a.* All requirements in the agreement are satisfied;
- b.* The distributed generation facility is approved by the electric code officials with jurisdiction over the interconnection;
- c.* The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- d.* The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement.

45.9(6) Additional review may be appropriate when a distributed generation facility fails to meet one or more of the Level 2 screens. The utility shall offer to perform additional review to determine whether there are minor modifications to the distributed generation facility or electric distribution system that would enable the interconnection to be made safely and so that it will not cause adverse system impacts. The utility shall provide the applicant with a nonbinding estimate for the costs of additional review and the costs of minor modifications to the electric distribution system. The utility shall undertake the additional review only after the applicant pays for the additional review. The utility shall undertake the modifications only after the applicant pays for the modifications.

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

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

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

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

- a.* The applicant shall submit an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 3 application fee.

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

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

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

e. Interconnection requests meeting the requirements set forth in paragraph 45.7(3)"*a*" for nonexporting distributed generation facilities interconnecting to an area network shall be presumed to be appropriate for interconnection. The utility shall process the interconnection requests using the following procedures:

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

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

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

45.10(2) For a distributed generation facility that satisfies the criteria in paragraph 45.10(1)"*e*" or 45.10(1)"*f*," the utility shall approve the interconnection request and provide the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) for the applicant to sign within three business days of the date the utility makes its determination.

45.10(3) Within 35 business days after issuance by the utility of the Standard Distributed Generation Interconnection Agreement, the applicant shall complete, sign, and return the agreement to the utility. If the applicant does not sign the agreement within 35 business days, the request shall be deemed withdrawn, unless the applicant requests a 15-business-day extension in writing before the end of the 35-day period. An initial request for extension may not be denied by the utility. After the agreement is signed by the parties, interconnection of the distributed generation facility shall proceed according to any milestones agreed to by the parties in the Standard Distributed Generation Interconnection Agreement.

45.10(4) The Standard Distributed Generation Interconnection Agreement shall not be final until:

- a.* All requirements in the agreement are satisfied; and
- b.* The distributed generation facility is approved by the electric code officials with jurisdiction over the distributed generation facility; and
- c.* The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility; and
- d.* The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement.

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

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

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

45.11(1) The applicant submits an interconnection request using the appropriate Standard Application Form in Appendix C (199—45.16(476)) along with the Level 4 application fee.

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

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

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

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

b. Standard Level 4 study review procedures.

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

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

1. The utility shall provide the applicant a copy of the Standard Interconnection Feasibility Study Agreement in Appendix E (199—45.18(476)) or a mutually agreed-upon alternative form, plus a description of the study and a nonbinding estimate of the cost to perform the study.

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

- Receipt of a complete interconnection request; and
 - The scoping meeting (if held).
3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.
- (3) System impact study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection system impact study (subrule 45.11(6)) shall be performed.
1. The utility shall provide the applicant a copy of the Standard Interconnection System Impact Study Agreement in Appendix F (199—45.19(476)) or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.
2. The utility shall provide the study agreement and information no later than 10 business days after the following have occurred, as applicable:
- Receipt of a complete interconnection request;
 - The scoping meeting (if held); and
 - Transmittal of the interconnection feasibility study (if performed).
3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.
- (4) Facilities study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection facilities study (subrule 45.11(7)) shall be performed.
1. The utility shall provide the applicant a copy of the Standard Interconnection Facilities Study Agreement in Appendix G (199—45.20(476)) or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.
2. The utility shall provide the study agreement and information no later than 10 business days after the following have occurred, as applicable:
- Receipt of a complete interconnection request;
 - The scoping meeting (if held);
 - Transmittal of the interconnection feasibility study (if performed); and
 - Transmittal of the interconnection system impact study (if performed).
3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.
- 45.11(5) Interconnection feasibility study.**
- a.* Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4)“a,” the interconnection feasibility study shall include any necessary analyses for the purpose of identifying potential adverse system impacts to the utility’s electric system that would result from the interconnection from among the following:
- (1) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;
 - (2) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection; and
 - (3) Initial review of grounding requirements and system protection.
- b.* Before performing the study, the utility shall provide the applicant a description of the study and a nonbinding estimate of the cost to perform the study.
- c.* If an applicant requests that the interconnection feasibility study evaluate multiple potential points of interconnection, additional evaluations may be required. Additional evaluations shall be paid for by the applicant.
- d.* An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact but the utility is able to identify a remedy without the need for an interconnection system impact study.
- e.* Either party can require that the Standard Interconnection Feasibility Study Agreement in Appendix E (199—45.18(476)) be used. However, if both parties agree, an alternative form can be used.
- 45.11(6) Interconnection system impact study.** An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the utility’s electric

distribution system. The study identifies and details the system impacts that interconnecting the distributed generation facility to the utility's electric system have if there are no system modifications. It focuses on the potential or actual adverse system impacts identified in the interconnection feasibility study, including those that were identified in the scoping meeting. The study shall consider all other distributed generation facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the utility's system, have a pending higher review order position to interconnect to the electric distribution system, or have signed an interconnection agreement.

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

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

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

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

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

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

d. Either party can require that the Standard Interconnection System Impact Study Agreement in Appendix F (199—45.19(476)) be used. However, if both parties agree, an alternative form can be used.

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

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

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

- (1) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;
- (2) The nature and estimated cost of the utility's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and
- (3) An estimate for the time required to complete the construction and installation of the interconnection facilities and distribution upgrades.

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

d. Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the utility shall provide the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) for the applicant to sign within three business days of the date the utility makes its determination.

e. In the event that distribution upgrades are identified in the interconnection system impact study that shall be added only in the event that customers with higher review order positions not yet interconnected eventually complete and interconnect their generation facilities, the applicant may elect to interconnect without paying the estimate for such upgrades at the time of the interconnection, provided that the applicant pays for such upgrades prior to commencement of construction of such upgrades to be completed by the time the customer with higher review order position is ready to interconnect. If the applicant does not pay for such upgrades at that time, the utility shall require the applicant to immediately disconnect its distributed generation facility to accommodate the customer with higher review order position.

f. Either party can require that the Standard Interconnection Facilities Study Agreement in Appendix G (199—45.20(476)) be used. However, if both parties agree, an alternative form can be used.

45.11(8) When a utility determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the distributed generation facility, the utility shall provide the applicant with the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)). If the interconnection request is denied, the utility shall provide the applicant with a written explanation as to its reasons for denying interconnection. If denied, the interconnection request does not retain its position in the review order.

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

45.11(10) The Standard Distributed Generation Interconnection Agreement is not final until:

- a.* The requirements of the agreement are satisfied; and
- b.* The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection; and
- c.* The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)).

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

199—45.12(476) Disputes.

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

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

45.12(3) Subsequent to the informal meeting referred to in subrule 45.12(2), a party may seek resolution of any disputes through the 199—Chapter 6 complaint procedures of the board. Dispute resolution under these procedures will initially be conducted informally under rules 199—6.2(476) through 199—6.4(476) to reach resolution with minimal cost and delay. If any party is dissatisfied with the outcome of the informal process, the party may file a formal complaint with the board under rule 199—6.5(476).

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

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

199—45.13(476) Records and reports.

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

- a.* The total nameplate capacity and fuel type of the distributed generation facility;
- b.* The level of review received (Level 1, Level 2, Level 3, or Level 4); and
- c.* Whether the interconnection was approved or denied.

45.13(2) Beginning May 1, 2011, each utility shall file a nonconfidential annual report detailing the information required in subrule 45.13(1) for the previous calendar year.

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

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

199—45.14(476) Appendix A – Level 1 standard application form and distributed generation interconnection agreement.

LEVEL 1:

STANDARD APPLICATION FORM AND INTERCONNECTION AGREEMENT

Interconnection Request Application Form and
Conditional Agreement to Interconnect
(For Lab-Certified Inverter-Based Distributed Generation Facilities 10 kVA or Smaller)

AN APPLICATION FEE OF \$50.00 MUST BE SUBMITTED WITH THE APPLICATION

Interconnection Applicant Contact Information

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Alternate Contact Information (if different from Applicant)

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Equipment Contractor

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____
License number (if applicable): _____
Active License? (if applicable) Yes ____ No ____

Electrical Contractor (if Different from Equipment Contractor):

Name: _____
 Mailing Address: _____
 City: _____ State: _____ Zip Code: _____
 Telephone (Daytime): _____ (Evening): _____
 Facsimile Number: _____ E-Mail Address: _____
 License number: _____
 Active License? Yes ___ No ___

Is the Interconnection Customer requesting Net Metering in accordance with Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff?
 Yes ___ No ___

Intent of Generation

- ___ Net Metering (Unit will operate in parallel and will export power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff)
- ___ Self-Use and Sales to the Utility (Unit will operate in parallel and may export and sell excess power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.5 and the utility's tariff)
- ___ Other (Please explain): _____

Distributed Generation Facility ("Facility") Information

Facility Address: _____
 City: _____ State: _____ Zip Code: _____
 Utility serving Facility site: _____
 Account Number of Facility site (existing utility customers): _____
 Inverter Manufacturer: _____ Model: _____

Is the inverter lab-certified as that term is defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation (199 IAC 45.1)?
 Yes ___ No ___

(If yes, attach manufacturer's technical specifications and label information from a nationally recognized testing laboratory.)

Generation Facility Nameplate Rating: _____(kW) _____ (kVA) _____(AC Volts)
 Energy Source: Wind ___ Solar ___ Biomass ___ Hydro ___ Diesel ___
 Natural Gas ___ Fuel Oil ___ Other: _____
 Energy Converter Type: Wind Turbine ___ Photovoltaic Cell ___ Fuel Cell ___
 Reciprocating Engine ___ Other: _____

Commissioning Test Date: _____

(If the Commissioning Test Date changes, the interconnection customer must inform the utility as soon as it is aware of the changed date.)

Insurance Disclosure

The attached terms and conditions contain provisions related to liability and indemnification and should be carefully considered by the interconnection customer. The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance.

Other Facility Information

One Line Diagram – A basic drawing of an electric circuit in which one or more conductors are represented by a single line and each electrical device and major component of the installation, from the generator to the point of interconnection, are noted by symbols.

One Line Diagram attached: _____ Yes

Plot Plan – A map showing the distributed generation facility's location in relation to streets, alleys, or other geographic markers.

Plot Plan attached: _____ Yes

Customer Signature

I hereby certify that: (1) I have read and understand the terms and conditions, which are attached hereto by reference; (2) I hereby agree to comply with the attached terms and conditions; and (3) to the best of my knowledge, all of the information provided in this application request form is complete and true.

Applicant Signature: _____
Title: _____ Date: _____

.....

This Application Form and Interconnection Agreement is comprised of: 1) the Level 1 Standard Application Form and Interconnection Agreement; 2) the Attachment of Terms and Conditions for Interconnection; and 3) the Certificate of Completion.

NOTE: If the Certificate of Completion is not completed and returned to the utility within 12 months following the utility's dated conditional agreement to interconnect below, this Application Form and Interconnection Agreement will automatically terminate and be of no further force and effect.

.....

Conditional Agreement to Interconnect Distributed Generation Facility

Receipt of the application fee is acknowledged and, by its signature below, the utility has determined the interconnection request is complete. Interconnection of the distributed generation facility is conditionally approved contingent upon the attached terms and conditions of this Agreement, the return of the attached Certificate of Completion, duly executed verification of electrical inspection and successful witness test.

Utility Signature: _____ Date: _____
Name: _____ Title: _____

ATTACHMENT

Level 1: Standard Interconnection Agreement

Terms and Conditions for Interconnection

- 1) Construction of the Distributed Generation Facility. The interconnection customer may proceed to construct (including operational testing not to exceed 2 hours) the distributed generation facility, once the conditional Agreement to interconnect a distributed generation facility has been signed by the utility.
- 2) Final Interconnection and Operation. The interconnection customer may operate the distributed generation facility and interconnect with the utility's electric distribution system after all of the following have occurred:
 - a) Electrical Inspection: Upon completing construction, the interconnection customer shall cause the distributed generation facility to be inspected by the local electrical inspection authority, who shall establish that the distributed generation facility meets local code requirements.
 - b) Certificate of Completion: The interconnection customer shall provide the utility with a copy of the Certificate of Completion with all relevant and necessary information fully completed by the interconnection customer, as well as an inspection form from the local electrical inspection authority demonstrating that the distributed generation facility passed inspection.
 - c) The utility has completed its witness test as per the following:
 - i) The interconnection customer shall provide the utility at least 15 business days' notice of the planned commissioning test for the distributed generation facility. Within 10 business days after the commissioning test, the utility may, upon reasonable notice and at a mutually convenient time, conduct a witness test of the distributed generation facility to ensure that all equipment has been appropriately installed and operating as designed and in accordance with the requirements of IEEE 1547.
 - ii) If the utility does not perform the witness test within the 10 business days after the commissioning test or such other time as is mutually agreed to by the Parties, the witness test is deemed waived, unless the utility cannot do so for good cause. In these cases, upon utility request, the interconnection customer shall agree to another date for the test within 10 business days after the original scheduled date.
- 3) IEEE 1547. The distributed generation facility shall be installed, operated and tested in accordance with the requirements of The Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems," as well as any applicable federal, state, or local laws, regulations, codes, ordinances, orders, or similar directives of any government or other authority having jurisdiction.
- 4) Access. The utility must have access to the isolation device or disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the utility shall provide notice to the customer prior to using its right of access.
- 5) Metering. Any required metering shall be installed pursuant to the utility's metering rules filed with the Iowa Utilities Board under subrule 199 IAC 20.2(5).

- 6) Disconnection. The utility may disconnect the distributed generation facility upon any of the following conditions, but must reconnect the distributed generation facility once the condition is cured:
- a) For scheduled outages, provided that the distributed generation facility is treated in the same manner as utility's load customers;
 - b) For unscheduled outages or emergency conditions;
 - c) If the distributed generation facility does not operate in a manner consistent with this Agreement or the applicable requirements of 199 IAC Chapter 15 or 45;
 - d) Improper installation or failure to pass the witness test;
 - e) If the distributed generation facility is creating a safety, reliability, or power quality problem;
 - f) The interconnection equipment used by the distributed generation facility is delisted by the Nationally Recognized Testing Laboratory that provided the listing at the time the interconnection was approved;
 - g) Unauthorized modification of the interconnection facilities or the distributed generation facility; or
 - h) Unauthorized connection to the utility's electric system.
- 7) Indemnification. The interconnection customer shall indemnify and defend the utility and the utility's directors, officers, employees, and agents from all claims, damages and expenses, including reasonable attorney's fees, to the extent resulting from the interconnection customer's negligent installation, operation, modification, maintenance, or removal of its distributed generation facility or interconnection facilities, or the interconnection customer's willful misconduct or breach of this Agreement. The utility shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the utility's negligent installation, operation, modification, maintenance, or removal of its interconnection facilities or electric distribution system, or the utility's willful misconduct or breach of this Agreement.
- 8) Insurance. The interconnection customer shall provide the utility with proof that it has a current homeowner's insurance policy or other general liability policy.
- 9) Limitation of Liability. Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever, provided that in no event shall death, bodily injury or third-party claims be construed as indirect or consequential damages.
- 10) Termination. This Agreement will remain in effect until terminated and may be terminated under the following conditions:
- a) By interconnection customer - The interconnection customer may terminate this interconnection agreement by providing written notice to the utility. If the interconnection customer ceases operation of the distributed generation facility, the interconnection customer must notify the utility.
 - b) By the utility - The utility may terminate this Agreement without liability to the interconnection customer if the interconnection customer fails to remedy a violation of terms of this Agreement within 30 calendar days after notice, or such other date as may be mutually agreed to in writing prior to the expiration of the 30 calendar day remedy period. The termination date may be no less than 30 calendar days after the interconnection customer receives notice of its violation from the utility.

- 11) Modification of Distributed Generation Facility. The interconnection customer must receive written authorization from the utility before making any changes to the distributed generation facility that could affect the utility's distribution system. If the interconnection customer makes such modifications without the utility's prior written authorization, the utility shall have the right to disconnect the distributed generation facility.
- 12) Permanent Disconnection. In the event the Agreement is terminated, the utility shall have the right to disconnect its facilities or direct the interconnection customer to disconnect its distributed generation facility.
- 13) Disputes. Each Party agrees to attempt to resolve all disputes regarding the provisions of this Agreement that cannot be resolved between the two Parties pursuant to the dispute resolution provisions found in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.12).
- 14) Governing Law, Regulatory Authority, and Rules. The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Iowa. Nothing in this Agreement is intended to affect any other agreement between the utility and the interconnection customer.
- 15) Survival Rights. This Agreement shall remain in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Agreement.
- 16) Assignment/Transfer of Ownership of the Distributed Generation Facility. This Agreement shall terminate upon the transfer of ownership of the distributed generation facility to a new owner unless the transferring owner assigns the Agreement to the new owner, the new owner agrees in writing to the terms of this Agreement, and the transferring owner so notifies the utility in writing prior to the transfer of ownership.
- 17) Definitions. Any term used herein and not defined shall have the same meaning as the defined terms used in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1).
- 18) Notice. The Parties may mutually agree to provide notices, demands, comments, or requests by electronic means such as e-mail. Absent agreement to electronic communication, or unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given when receipt is confirmed after notices are delivered in person, delivered by recognized national courier service, or sent by first-class mail, postage prepaid, return receipt requested, to the person specified below:

If Notice is to Interconnection Customer:

Use the contact information provided in the interconnection customer's application. The interconnection customer is responsible for notifying the utility of any change in the contact party information, including change of ownership.

If Notice is to Utility:

Use the contact information provided below. The utility is responsible for notifying the interconnection customer of any change in the contact party information.

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

- 19) Interruptions. The utility is not responsible for any lost opportunity or other costs incurred by the interconnection customer as a result of an interruption of service.

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

199—45.15(476) Appendix B – Standard certificate of completion.

CERTIFICATE OF COMPLETION

(To be completed and returned to the utility when installation is complete and final electric inspector approval has been obtained – Use contact information provided on the utility’s web page for generator interconnection to obtain mailing address/fax number/e-mail address)

Interconnection Customer Information

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Installer: _____ Check if owner-installed: _____

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Final Electric Inspection and Interconnection Customer Signature

The distributed generation facility is complete and has been approved by the local electric inspector having jurisdiction. A signed copy of the electric inspector’s form indicating final approval is attached. The interconnection customer acknowledges that it shall not operate the distributed generation facility until receipt of the final acceptance and approval by the utility as provided below.

Signed: _____ Date: _____
(Signature of interconnection customer)

Printed Name: _____

Check if copy of signed electric inspection form is attached: _____
Check if copy of as-built documents is attached (projects larger than 10 kVA only): _____

.....

Acceptance and Final Approval for Interconnection (for utility use only)

The interconnection agreement is approved and the distributed generation facility is approved for interconnected operation upon the signing and return of this Certificate of Completion by utility:

Electric Distribution Company waives Witness Test? (Initial) Yes (____) No (____)

If not waived, date of successful Witness Test: _____ Passed: (Initial) (____)

Utility Signature: _____ Date: _____

Printed Name: _____ Title: _____

199—45.16(476) Appendix C – Levels 2 to 4: standard application form.

LEVELS 2 TO 4:
STANDARD INTERCONNECTION REQUEST APPLICATION FORM
(For Distributed Generation Facilities 10 MVA or less)

Interconnection Customer Contact Information

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Alternative Contact Information (if different from Customer Contact Information)

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Facility Address (if different from above): _____
City: _____ State: _____ Zip Code: _____
Utility Serving Facility Site: _____
Account Number of Facility Site (existing utility customers): _____
Inverter Manufacturer: _____ Model: _____

Equipment Contractor

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____

Electrical Contractor (if different from Equipment Contractor)

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Facsimile Number: _____ E-Mail Address: _____
License Number: _____

Electric Service Information for Customer Facility where Generator will be Interconnected

Capacity: _____ (Amps) Voltage: _____ (Volts)
Type of Service: Single Phase Three Phase

If 3 Phase Transformer, Indicate Type:
Primary Winding Wye Delta
Secondary Winding Wye Delta

Transformer Size: _____ Impedance: _____

Intent of Generation

- Offset Load (Unit will operate in parallel, but will not export power to utility)
- Net Metering (Unit will operate in parallel and will export power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.11(5) and the utility's net metering or net billing tariff)
- Self-Use and Sales to the Utility (Unit will operate in parallel and may export and sell excess power to utility pursuant to Iowa Utilities Board rule 199 IAC 15.5 and the utility's tariff)
- Wholesale Market Transaction (Unit will operate in parallel and participate in MISO or other wholesale power markets pursuant to separate requirements and agreements with MISO or other transmission providers, and applicable rules of the Federal Energy Regulatory Commission)
- Back-up Generation (Units that temporarily operate in parallel with the electric distribution system for more than 100 milliseconds)

Note: Back-up units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

Generator & Prime Mover Information

Energy Source (Hydro, Wind, Solar, Process Byproduct, Biomass, Oil, Natural Gas, Coal, etc.): _____

Energy Converter Type (Wind Turbine, Photovoltaic Cell, Fuel Cell, Steam Turbine, etc.): _____

Generator Size: _____ kW or _____ kVA Number of Units: _____

Total Capacity: _____ kW or _____ kVA

Generator Type (Check one):
 Induction Inverter Synchronous Other: _____

Requested Procedure Under Which to Evaluate Interconnection Request

Please indicate below which review procedure applies to the interconnection request. The review procedure used is subject to confirmation by the utility.

- Level 2 – Lab-certified interconnection equipment with an aggregate electric nameplate capacity less than or equal to 2 MVA. Lab-certified is defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1). (Application fee is \$100 plus \$1.00 per kVA.)
- Level 3 – Distributed generation facility does not export power. Nameplate capacity rating is less than or equal to 50 kVA if connecting to area network or less than or equal to 10 MVA if connecting to a radial distribution feeder. (Application fee amount is \$500 plus \$2.00 per kVA.)

___ Level 4 – Nameplate capacity rating is less than or equal to 10 MVA and the distributed generation facility does not qualify for a Level 1, Level 2, or Level 3 review, or the distributed generation facility has been reviewed but not approved under a Level 1, Level 2, or Level 3 review. (Application fee amount is \$1,000 plus \$2.00 per kVA, to be applied toward any subsequent studies related to this application.)

Note: Descriptions for interconnection review categories do not list all criteria that must be satisfied. For a complete list of criteria, please refer to Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).

Distributed Generation Facility Information:

Commissioning Test Date: _____

List interconnection components/systems to be used in the distributed generation facility that are lab-certified.

Component/System	NRTL Providing Label & Listing
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Please provide copies of manufacturer brochures or technical specifications.

Energy Production Equipment/Inverter Information:

___ Synchronous ___ Induction ___ Inverter ___ Other: _____
 Rating: _____ kW Rating: _____ kVA
 Rated Voltage: _____ Volts
 Rated Current: _____ Amps
 System Type Tested (Total System): ___ Yes ___ No; attach product literature

For Synchronous Machines:

Note: Contact utility to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: _____
 Model No.: _____ Version No.: _____
 Submit copies of the Saturation Curve and the Vee Curve
 ___ Salient ___ Non-Salient
 Torque: ___ lb-ft Rated RPM: _____ Field Amperes: _____ at rated generator
 voltage and current and _____ % PF over-excited
 Type of Exciter: _____
 Output Power of Exciter: _____
 Type of Voltage Regulator: _____
 Locked Rotor Current: _____ Amps Synchronous Speed: _____ RPM
 Winding Connection: _____ Min. Operating Freq./Time: _____
 Generator Connection: ___ Delta ___ Wye ___ Wye Grounded
 Direct-axis Synchronous Reactance: (Xd) _____ ohms
 Direct-axis Transient Reactance: (X'd) _____ ohms
 Direct-axis Sub-transient Reactance: (X''d) _____ ohms
 Negative Sequence Reactance: _____ ohms
 Zero Sequence Reactance: _____ ohms
 Neutral Impedance or Grounding Resister (if any): _____ ohms

For Induction Machines:

Note: Contact utility to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: _____
 Model No.: _____ Version No.: _____
 Locked Rotor Current: _____ Amps
 Rotor Resistance (Rr): _____ ohms Exciting Current: _____ Amps
 Rotor Reactance (Xr): _____ ohms Reactive Power Required: _____
 Magnetizing Reactance (Xm): _____ ohms _____ VARs (No Load)
 Stator Resistance (Rs): _____ ohms _____ VARs (Full Load)
 Stator Reactance (Xs): _____ ohms
 Short Circuit Reactance (X'd): _____ ohms
 Phases: ___ Single ___ Three-Phase
 Frame Size: _____ Design Letter: ___ Temp. Rise: _____ °C.

Reverse Power Relay Information (Level 3 Review Only):

Manufacturer: _____
 Relay Type: _____ Model Number: _____
 Reverse Power Setting: _____
 Reverse Power Time Delay (if any): _____

Additional Information For Inverter-Based Facilities:

Inverter Information:

Manufacturer: _____ Model: _____
Type: Forced Commutated Line Commutated
Rated Output: _____ Watts _____ Volts
Efficiency: _____% Power Factor: _____%
Inverter UL1741 Listed: Yes No

DC Source/Prime Mover:

Rating: _____ kW Rating: _____ kVA
Rated Voltage: _____ Volts
Open Circuit Voltage (if applicable): _____ Volts
Rated Current: _____ Amps
Short Circuit Current (if applicable): _____ Amps

Other Facility Information:

One-Line Diagram – A basic drawing of an electric circuit in which one or more conductors are represented by a single line and each electrical device and major component of the installation, from the generator to the point of interconnection, are noted by symbols.

One-Line Diagram attached: Yes

Plot Plan – A map showing the distributed generation facility’s location in relation to streets, alleys, or other geographic markers.

Plot Plan attached: Yes

Customer Signature:

I hereby certify that all of the information provided in this Interconnection Request Application Form is true.

Applicant Signature: _____
Title: _____ Date: _____

An application fee is required before the application can be processed. Please verify that the appropriate fee is included with the application:

Amount: _____

Utility Acknowledgement:

Receipt of the application fee is acknowledged and this interconnection request is complete.

Utility Signature: _____ Date: _____
Printed Name: _____ Title: _____

199—45.17(476) Appendix D – Levels 2 to 4: standard distributed generation interconnection agreement.

LEVELS 2 TO 4:
STANDARD INTERCONNECTION AGREEMENT
(For Distributed Generation Facilities with a capacity of 10 MVA or less)

This agreement ("Agreement") is made and entered into this _____ day of _____, by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____, and _____, ("utility"), a _____ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to install or direct the installation of a distributed generation facility, or is proposing a generating capacity addition to an existing distributed generation facility, consistent with the interconnection request application form completed by interconnection customer on _____; and

Whereas, the interconnection customer will operate and maintain, or cause the operation and maintenance of, the distributed generation facility; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system.

Now, therefore, in consideration of the premises and mutual covenants set forth in this Agreement, the Parties covenant and agree as follows:

Article 1. Scope and Limitations of Agreement

- 1.1 This Agreement shall be used for all approved interconnection requests for distributed generation facilities that fall under Levels 2, 3, and 4 according to the procedures set forth in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).
- 1.2 This Agreement governs the terms and conditions under which the distributed generation facility will interconnect to, and operate in parallel with, the utility's electric distribution system.
- 1.3 This Agreement does not constitute an agreement to purchase or deliver the interconnection customer's power.
- 1.4 Nothing in this Agreement is intended to affect any other agreement between the utility and the interconnection customer.
- 1.5 Terms used in this Agreement are defined in Attachment 1 hereto or in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) unless otherwise noted.
- 1.6 Responsibilities of the Parties
 - 1.6.1 The Parties shall perform all obligations of this Agreement in accordance with all applicable laws, regulations, codes, ordinances, orders, or similar directives of any government or other authority having jurisdiction.

- 1.6.2 The utility shall construct, own, operate, and maintain its interconnection facilities in accordance with this Agreement.
- 1.6.3 The interconnection customer shall construct, own, operate, and maintain its distributed generation facility and interconnection facilities in accordance with this Agreement.
- 1.6.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for, the facilities that it now owns or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair, and condition of its respective lines and appurtenances on its respective sides of the point of interconnection.
- 1.6.5 The interconnection customer agrees to design, install, maintain, and operate its distributed generation facility so as to minimize the likelihood of causing an adverse system impact on the electric distribution system or any other electric system that is not owned or operated by the utility.

1.7 Parallel Operation Obligations

Once the distributed generation facility has been authorized to commence parallel operation, the interconnection customer shall abide by all operating procedures established in IEEE Standard 1547 and any other applicable laws, statutes or guidelines, including those specified in Attachment 4 of this Agreement.

1.8 Metering

The interconnection customer shall be responsible for the cost to purchase, install, operate, maintain, test, repair, and replace metering and data acquisition equipment specified in Attachments 5 and 6 of this Agreement.

1.9 Reactive Power

- 1.9.1 Interconnection customers with a distributed generation facility larger than or equal to 1 MVA shall design their distributed generation facilities to maintain a power factor at the point of interconnection between .95 lagging and .95 leading at all times. Interconnection customers with a distributed generation facility smaller than 1 MVA shall design their distributed generation facility to maintain a power factor at the point of interconnection between .90 lagging and .90 leading at all times.
- 1.9.2 Any utility requirements for meeting a specific voltage or specific reactive power schedule as a condition for interconnection shall be clearly specified in Attachment 4. Under no circumstance shall the utility's additional requirements for voltage or reactive power schedules be outside of the agreed-upon operating parameters defined in Attachment 4.
- 1.9.3 If the interconnection customer does not operate the distributed generation facility within the power factor range specified in Attachment 4, or does not operate the distributed generation facility in accordance with a voltage or reactive power schedule specified in Attachment 4, the interconnection customer is in default, and the terms of Article 6.5 apply.

1.10 Standards of Operations

The interconnection customer must obtain all certifications, permits, licenses, and approvals necessary to construct, operate, and maintain the facility and to perform its obligations under this Agreement. The interconnection customer is responsible for coordinating and synchronizing the distributed generation facility with the utility's system. The interconnection customer is responsible for any damage that is caused by the interconnection customer's failure to coordinate or synchronize the distributed generation facility with the electric distribution system. The interconnection customer agrees to be primarily liable for any damages resulting from the continued operation of the distributed generation facility after the utility ceases to energize the line section to which the distributed generation facility is connected. In Attachment 4, the utility shall specify the shortest reclose time setting for its protection equipment that could affect the distributed generation facility. The utility shall notify the interconnection customer at least 10 business days prior to adopting a faster reclose time on any automatic protective equipment, such as a circuit breaker or line recloser, that might affect the distributed generation facility.

Article 2. Inspection, Testing, Authorization, and Right of Access

2.1 Equipment Testing and Inspection

The interconnection customer shall test and inspect its distributed generation facility including the interconnection equipment prior to interconnection in accordance with IEEE Standard 1547 (2003) and IEEE Standard 1547.1 (2005). The interconnection customer shall not operate its distributed generation facility in parallel with the utility's electric distribution system without prior written authorization by the utility as provided for in Articles 2.1.1-2.1.3.

2.1.1 The utility shall perform a witness test after construction of the distributed generation facility is completed, but before parallel operation, unless the utility specifically waives the witness test. The interconnection customer shall provide the utility at least 15 business days' notice of the planned commissioning test for the distributed generation facility. If the utility performs a witness test at a time that is not concurrent with the commissioning test, it shall contact the interconnection customer to schedule the witness test at a mutually agreeable time within 10 business days after the scheduled commissioning test designated on the application. If the utility does not perform the witness test within 10 business days after the commissioning test, the witness test is deemed waived unless the Parties mutually agree to extend the date for scheduling the witness test, or unless the utility cannot do so for good cause, in which case, the Parties shall agree to another date for scheduling the test within 10 business days after the original scheduled date. If the witness test is not acceptable to the utility, the interconnection customer has 30 business days to address and resolve any deficiencies. This time period may be extended upon agreement in writing between the utility and the interconnection customer. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the utility, the applicable cure provisions of Article 6.5 shall apply. The interconnection customer shall, if requested by the utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

- 2.1.2 If the interconnection customer conducts interim testing of the distributed generation facility prior to the witness test, the interconnection customer shall obtain permission from the utility before each occurrence of operating the distributed generation facility in parallel with the electric distribution system. The utility may, at its own expense, send qualified personnel to the distributed generation facility to observe such interim testing, but it cannot mandate that these tests be considered in the final witness test. The utility is not required to observe the interim testing or precluded from requiring the tests be repeated at the final witness test.
- 2.1.3 After the distributed generation facility passes the witness test, the utility shall affix an authorized signature to the certificate of completion and return it to the interconnection customer approving the interconnection and authorizing parallel operation. The authorization shall not be conditioned or delayed.

2.2 Commercial Operation

The interconnection customer shall not operate the distributed generation facility, except for interim testing as provided in Article 2.1, until such time as the certificate of completion is signed by all Parties.

2.3 Right of Access

The utility must have access to the isolation device or disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the utility shall provide notice to the customer prior to using its right of access.

Article 3. Effective Date, Term, Termination, and Disconnection

3.1 Effective Date

This Agreement shall become effective upon execution by all Parties.

3.2 Term of Agreement

This Agreement shall become effective on the effective date and shall remain in effect unless terminated in accordance with Article 3.3 of this Agreement.

3.3 Termination

- 3.3.1 The interconnection customer may terminate this Agreement at any time by giving the utility 30 calendar days' prior written notice.
- 3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.
- 3.3.3 The utility may terminate, upon 60 calendar days' prior written notice, for failure of the interconnection customer to complete construction of the distributed generation facility within 12 months after the in-service date as specified by the Parties in Attachment 2, which may be extended by mutual written agreement between the Parties prior to the expiration of the 12-month period.
- 3.3.4 The utility may terminate this Agreement, upon 60 calendar days' prior written notice, if the interconnection customer has abandoned, cancelled, permanently disconnected or stopped development, construction, or operation of the distributed generation facility, or if the interconnection customer fails to operate the distributed generation facility in parallel with the utility's electric system for three consecutive years.

- 3.3.5 Upon termination of this Agreement, the distributed generation facility will be disconnected from the utility's electric distribution system. Terminating this Agreement does not relieve either Party of its liabilities and obligations that are owed or continuing when the Agreement is terminated.
- 3.3.6 If the Agreement is terminated, the interconnection customer loses its position in the interconnection review order.

3.4 Temporary Disconnection

A Party may temporarily disconnect the distributed generation facility from the electric distribution system in the event one or more of the following conditions or events occurs:

- 3.4.1 Emergency conditions – Shall mean any condition or situation: (1) that in the judgment of the Party making the claim is likely to endanger life or property; or (2) that the utility determines is likely to cause an adverse system impact, or is likely to have a material adverse effect on the utility's electric distribution system, interconnection facilities or other facilities, or is likely to interrupt or materially interfere with the provision of electric utility service to other customers; or (3) that is likely to cause a material adverse effect on the distributed generation facility or the interconnection equipment. Under emergency conditions, the utility or the interconnection customer may suspend interconnection service and temporarily disconnect the distributed generation facility from the electric distribution system without giving notice to the other Party, provided that it gives notice as soon as practicable thereafter. The utility must notify the interconnection customer when it becomes aware of any conditions that might affect the interconnection customer's operation of the distributed generation facility. The interconnection customer shall notify the utility when it becomes aware of any condition that might affect the utility's electric distribution system. To the extent information is known, the notification shall describe the condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.
- 3.4.2 Scheduled maintenance, construction, or repair – the utility may interrupt interconnection service or curtail the output of the distributed generation facility and temporarily disconnect the distributed generation facility from the utility's electric distribution system when necessary for scheduled maintenance, construction, or repairs on utility's electric distribution system. To the extent possible, the utility shall provide the interconnection customer with notice five business days before an interruption. The utility shall coordinate the reduction or temporary disconnection with the interconnection customer; however, the interconnection customer is responsible for out-of-pocket costs incurred by the utility for deferring or rescheduling maintenance, construction, or repair at the interconnection customer's request.
- 3.4.3 Forced outages – The utility may suspend interconnection service to repair the utility's electric distribution system. The utility shall provide the interconnection customer with prior notice, if possible. If prior notice is not possible, the utility shall, upon written request, provide the interconnection customer with written documentation, after the fact, explaining the circumstances of the disconnection.

- 3.4.4 Adverse system impact – The utility must provide the interconnection customer with written notice of its intention to disconnect the distributed generation facility, if the utility determines that operation of the distributed generation facility creates an adverse system impact. The documentation that supports the utility's decision to disconnect must be provided to the interconnection customer. The utility may disconnect the distributed generation facility if, after receipt of the notice, the interconnection customer fails to remedy the adverse system impact within 12 days, unless emergency conditions exist, in which case, the provisions of Article 3.4.1 apply. The utility may continue to leave the generating facility disconnected until the adverse system impact is corrected to the satisfaction of both the utility and the adversely-impacted customer.
- 3.4.5 Modification of the distributed generation facility – The interconnection customer must receive written authorization from the utility prior to making any change to the distributed generation facility, other than a minor equipment modification. If the interconnection customer modifies its facility without the utility's prior written authorization, the utility has the right to disconnect the distributed generation facility until such time as the utility concludes the modification poses no threat to the safety or reliability of its electric distribution system.
- 3.4.6 Unauthorized connection to the utility's electric distribution system.
- 3.4.7 Failure of the distributed generation facility to operate in accordance with this Agreement or the applicable requirements of 199 IAC Chapter 15 or 45.
- 3.4.8 The utility is not responsible for any lost opportunity or other costs incurred by interconnection customer as a result of an interruption of service under Article 3.

Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

4.1 Interconnection Facilities

- 4.1.1 The interconnection customer shall pay for the cost of the interconnection facilities itemized in Attachment 3. The utility shall identify the additional interconnection facilities necessary to interconnect the distributed generation facility with the utility's electric distribution system, the cost of those facilities, and the time required to build and install those facilities, as well as an estimated date of completion of the building or installation of those facilities.
- 4.1.2 The interconnection customer is responsible for its expenses, including overheads, associated with owning, operating, maintaining, repairing, and replacing its interconnection equipment.

4.2 Distribution Upgrades

The utility shall design, procure, construct, install, and own any distribution upgrades. The actual cost of the distribution upgrades, including overheads, shall be directly assigned to the interconnection customer whose distributed generation facility caused the need for the distribution upgrades.

Article 5. Billing, Payment, Milestones, and Financial Security

- 5.1 Billing and Payment Procedures and Final Accounting (Applies to additional reviews conducted under a Level 2 review and Level 4 reviews)
- 5.1.1 The utility shall bill the interconnection customer for the design, engineering, construction, and procurement costs of utility-provided interconnection facilities and distribution upgrades contemplated by this Agreement as set forth in Attachment 3. The billing shall occur on a monthly basis, or as otherwise agreed to between the Parties. The interconnection customer shall pay each billing invoice within 30 calendar days after receipt, or as otherwise agreed to between the Parties, if a balance due is showing after any customer deposit funds have been expended.
- 5.1.2 Within 90 calendar days after completing the construction and installation of the utility's interconnection facilities and distribution upgrades described in Attachments 2 and 3 to this Agreement, the utility shall provide the interconnection customer with a final accounting report of any difference between: (1) the actual cost incurred to complete the construction and installation of the utility's interconnection facilities and distribution upgrades; and (2) the interconnection customer's previous deposit and aggregate payments to the utility for the interconnection facilities and distribution upgrades. If the interconnection customer's cost responsibility exceeds its previous deposit and aggregate payments, the utility shall invoice the interconnection customer for the amount due and the interconnection customer shall make payment to the utility within 30 calendar days. If the interconnection customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the utility shall refund to the interconnection customer an amount equal to the difference within 30 calendar days after the final accounting report. Upon request from the interconnection customer, if the difference between the budget estimate and the actual cost exceeds 20%, the utility will provide a written explanation for the difference.
- 5.1.3 If a Party disputes any portion of its payment obligation pursuant to this Article 5, the Party shall pay in a timely manner all non-disputed portions of its invoice, and the disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. A Party disputing a portion of an Article 5 payment shall not be considered to be in default of its obligations under this Article.
- 5.2 Interconnection Customer Deposit

At least 20 business days prior to the commencement of the design, procurement, installation, or construction of the utility's interconnection facilities and distribution upgrades, the interconnection customer shall provide the utility with a deposit equal to 100% of the estimated, nonbinding cost to procure, install, or construct any such facilities. However, when the estimated date of completion of the building or installation of facilities exceeds three months from the date of payment of the deposit, pursuant to Article 4.1.1 of this Agreement, this deposit may be held by the utility and will accrue interest in accordance with 199 IAC 20.4(4), with any interest to inure to the benefit of the interconnection customer.

Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default

6.1 Assignment

This Agreement may be assigned by either Party with the prior consent of the other Party. If the interconnection customer attempts to assign this Agreement, the assignee must agree to the terms of this Agreement in writing and such writing must be provided to the utility. Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason of the assignment. An assignee is responsible for meeting the same obligations as the assignor.

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (including mergers, consolidations, or transfers or a sale of a substantial portion of the Party's assets, between the Party and another entity), of the assigning Party that has an equal or greater credit rating and the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement.

6.1.2 The interconnection customer can assign this Agreement, without the consent of the utility, for collateral security purposes to aid in providing financing for the distributed generation facility.

6.2 Limitation on Damages

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages, including death, bodily injury, third-party claims, and reasonable attorney's fees, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees, and agents, or any of them, be liable to another Party, whether in tort, contract, or other basis in law or equity for any special, indirect, punitive, exemplary, or consequential damages, including lost profits, lost revenues, replacement power, cost of capital, or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

6.3 Indemnity

6.3.1 This provision protects each Party from liability incurred as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.

6.3.2 The interconnection customer shall indemnify and defend the utility and the utility's directors, officers, employees, and agents, from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the interconnection customer's negligent installation, operation, modification, maintenance, or removal of its distributed generation facility or interconnection facilities, or the interconnection customer's willful misconduct or breach of this Agreement.

- 6.3.3 The utility shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all claims, damages, and expenses, including reasonable attorney's fees, to the extent resulting from the utility's negligent installation, operation, modification, maintenance, or removal of its interconnection facilities or electric distribution system, or the utility's willful misconduct or breach of this Agreement.
- 6.3.4 Within 5 business days after receipt by an indemnified Party of any claim or notice that an action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply has commenced, the indemnified Party shall notify the indemnifying Party of such fact. The failure to notify, or a delay in notification, shall not affect a Party's indemnification obligation unless that failure or delay is materially prejudicial to the indemnifying Party.
- 6.3.5 If an indemnified Party is entitled to indemnification under this Article as a result of a claim, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, that indemnified Party may, at the expense of the indemnifying Party, contest, settle, or consent to the entry of any judgment with respect to, or pay in full, the claim.
- 6.3.6 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of the indemnified Party's actual loss, net of any insurance or other recovery by the indemnified Party.
- 6.4 Force Majeure
- 6.4.1 As used in this Article, a force majeure event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage, or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military, or lawfully established civilian authorities (e.g., MISO), or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.
- 6.4.2 If a force majeure event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the force majeure event ("Affected Party") shall notify the other Party of the existence of the force majeure event as soon as reasonably possible. The notification will specify the circumstances of the force majeure event, its expected duration (if known), and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance (if known). If the initial notification is verbal, it must be followed up with a written notification promptly thereafter. The Affected Party shall keep the other Party informed on a periodic basis of developments relating to the force majeure event until the event ends. The Affected Party may suspend or modify its obligations under this Agreement without liability only to the extent that the effect of the force majeure event cannot be otherwise mitigated.

6.5 Default

- 6.5.1 No default shall exist when the failure to discharge an obligation results from a force majeure event as defined in this Agreement, or the result of an act or omission of the other Party.
- 6.5.2 A Party shall be in default ("Default") of this Agreement if it fails in any material respect to comply with, observe, or perform, or defaults in the performance of, any covenant or obligation under this Agreement and fails to cure the failure within 60 calendar days after receiving written notice from the other Party. Upon a default of this Agreement, the non-defaulting Party shall give written notice of the default to the defaulting Party. Except as provided in Article 6.5.3, the defaulting Party has 60 calendar days after receipt of the default notice to cure the default; provided, however, if the default cannot be cured within 60 calendar days, the defaulting Party shall commence the cure within 20 calendar days after original notice and complete the cure within six months from receipt of the default notice; and, if cured within that time, the default specified in the notice shall cease to exist.
- 6.5.3 If a Party has assigned this Agreement in a manner that is not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, and is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party has 30 days from receipt of the default notice to cure the default.
- 6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for in this Article, the non-defaulting Party shall have the right to terminate this Agreement without liability by written notice, and be relieved of any further obligation under this Agreement and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due under this Agreement, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.

Article 7. Insurance

- 7.1 For distributed generation facilities with a nameplate capacity less than 1 MVA, the interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance.
- 7.2 For distributed generation facilities with a nameplate capacity of 1 MVA or above, the interconnection customer shall carry sufficient insurance coverage so that the maximum comprehensive/general liability coverage that is continuously maintained by the interconnection customer during the term shall be not less than \$2,000,000 for each occurrence, and an aggregate, if any, of at least \$4,000,000. The utility, its officers, employees, and agents shall be added as an additional insured on this policy. The interconnection customer agrees to provide the utility with at least 30 calendar days' advance written notice of cancellation, reduction in limits, or non-renewal of any insurance policy required by this Article.

Article 8. Dispute Resolution

- 8.1 Parties shall attempt to resolve all disputes regarding interconnection as provided in this Article in a good faith manner.

- 8.2 If there is a dispute between the Parties about an interpretation of the Agreement, the aggrieved Party shall issue a written notice to the other Party to the agreement that specifies the dispute and the Agreement articles that are disputed.
- 8.3 A meeting between the Parties shall be held within ten business days after receipt of the written notice. Persons with decision-making authority from each Party shall attend the meeting. If the dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each Party shall also attend the meeting. If the Parties agree, the meeting may be conducted by teleconference.
- 8.4 After the first meeting, each Party may seek resolution through the Iowa Utilities Board Chapter 6 complaint procedures (199 IAC 6). Dispute resolution under these procedures will initially be conducted informally under 199 IAC 6.2 through 6.4 to minimize cost and delay. If any Party is dissatisfied with the outcome of the informal process, the Party may file a formal complaint with the Board under 199 IAC 6.5.
- 8.5 Pursuit of dispute resolution may not affect an interconnection request or an interconnection applicant's position in the utility's interconnection review order.
- 8.6 If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

Article 9. Miscellaneous

9.1 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Iowa, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek change in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority. The language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against the utility or interconnection customer, regardless of the involvement of either Party in drafting this Agreement.

9.2 Amendment

Modification of this Agreement shall be only by a written instrument duly executed by both Parties.

9.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations in this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

9.4 Waiver

9.4.1 Except as otherwise provided in this Agreement, a Party's compliance with any obligation, covenant, agreement, or condition in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting the waiver, but the waiver or failure to insist upon strict compliance with the obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

9.4.2 Failure of any Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or the rights under this Agreement terminated, shall not constitute a waiver or relinquishment of any rights set out in this Agreement, but the same shall be and remain at all times in full force and effect, unless and only to the extent expressly set forth in a written document signed by that Party granting the waiver or relinquishing any such rights. Any waiver granted, or relinquishment of any right, by a Party shall not operate as a relinquishment of any other rights or a waiver of any other failure of the Party granted the waiver to comply with any obligation, covenant, agreement, or condition of this Agreement.

9.5 Entire Agreement

Except as provided in Article 9.1, this Agreement, including all attachments and the completed Standard Certificate of Completion (199 IAC 45.15), constitutes the entire Agreement between the Parties with reference to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

9.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

9.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties, or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

9.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) that portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by the ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

9.9 Environmental Releases

Each Party shall notify the other Party of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the distributed generation facility or the interconnection facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided that Party makes a good faith effort to provide the notice no later than 24 hours after that Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

9.10 Subcontractors

Nothing in this Agreement shall prevent a Party from using the services of any subcontractor it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing services and each Party shall remain primarily liable to the other Party for the performance of the subcontractor.

9.10.1 A subcontract relationship does not relieve any Party of any of its obligations under this Agreement. The hiring Party remains responsible to the other Party for the acts or omissions of its subcontractor. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of the hiring Party.

9.10.2 The obligations under this Article cannot be limited in any way by any limitation of subcontractor's insurance.

Article 10. Notices

10.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first-class mail, postage prepaid, to the person specified below:

If Notice is to Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____ E-mail: _____

If Notice is to Utility:

Utility: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____ E-mail: _____

Alternative Forms of Notice:

Any notice or request required or permitted to be given by either Party to the other Party and not required by this Agreement to be in writing may be given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out above.

10.2 Billing and Payment

Billings and payments shall be sent to the contacts specified for Notices in Article 10.1 above, unless a different address is set out below:

If Billing or Payment is to Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

If Billing or Payment is to Utility:

Utility: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

10.3 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications that may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities. If no such operating representative is designated below, such notices will be sent to the contacts listed in Article 10.1 above.

Interconnection Customer's Operating Representative:

Name: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

Utility's Operating Representative:

Name: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____

10.4 Changes to the Notice Information

Either Party may change this notice information by giving five business days' written notice before the effective date of the change.

Article 11. Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Interconnection Customer:

Name: _____
Title: _____
Date: _____

For the Utility:

Name: _____
Title: _____
Date: _____

ATTACHMENT 1

Levels 2 To 4: Standard Interconnection Agreement

Definitions

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

AEP facility – An AEP facility as defined in 199 IAC 15 (Iowa Utilities Board Chapter 15 rules on Cogeneration and Small Power Production), used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. An AEP facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

Applicable laws and regulations – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority, having jurisdiction over the Parties.

Commissioning test – Tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts. At a minimum, the scope of the commissioning tests performed shall include the commissioning test specified IEEE Standard 1547 Section 5.4 "Commissioning tests."

Distributed generation facility – A qualifying facility or an AEP facility.

Distribution upgrades – A required addition or modification to the utility's electric distribution system at or beyond the point of interconnection to accommodate the interconnection of a distributed generation facility. Distribution upgrades do not include interconnection facilities.

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

Facilities study – An engineering study conducted by the utility to determine the required modifications to the utility's electric distribution system, including the cost and the time required to build and install the modifications, as necessary to accommodate an interconnection request.

Force majeure event – Any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage, or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities (e.g., MISO), or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.

Governmental authority – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that this term does not include the interconnection customer, utility, or any affiliate of either.

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

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

Interconnection agreement or Agreement – The agreement between the interconnection customer and the utility. The interconnection agreement governs the connection of the distributed generation facility to the utility's electric distribution system and the ongoing operation of the distributed generation facility after it is connected to the utility's electric distribution system.

Interconnection customer – The entity entering into this Agreement for the purpose of interconnecting a distributed generation facility to the utility's electric distribution system.

Interconnection equipment – A group of components or an integrated system connecting an electric generator with a local electric power system or an electric distribution system that includes all interface equipment, including switchgear, protective devices, inverters, or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

Interconnection facilities – Facilities and equipment required by the utility to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility and the point of interconnection, including modification, additions, or upgrades that are necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

Interconnection request – An interconnection customer's request, on the required form, for the interconnection of a new distributed generation facility, or to increase the capacity or change the operating characteristics of an existing distributed generation facility that is interconnected with the utility's electric distribution system.

Interconnection study – Any of the following studies, as determined to be appropriate by the utility: the interconnection feasibility study, the interconnection system impact study, and the interconnection facilities study.

Iowa standard distributed generation interconnection rules – The most current version of the procedures for interconnecting distributed generation facilities adopted by the Iowa Utilities Board. See Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45).

Parallel operation or Parallel – The state of operation that occurs when a distributed generation facility is connected electrically to the electric distribution system for longer than 100 milliseconds.

Point of interconnection – The point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling" defined in 3.1.13 of IEEE Standard 1547.

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

Utility – Any electric utility that is subject to rate regulation by the Iowa Utilities Board.

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

ATTACHMENT 2

Levels 2 To 4: Standard Interconnection Agreement

Construction Schedule, Proposed Equipment & Settings

This attachment is to be completed by the interconnection customer and shall include the following:

1. The construction schedule for the distributed generation facility.
2. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, metering equipment, and distribution upgrades.
3. Component specifications for equipment identified in the one-line diagram.
4. Component settings.
5. Proposed sequence of operations.
6. A three-line diagram showing current potential circuits for protective relays.
7. Relay tripping and control schematic diagram.
8. A plot plan showing the distributed generation facility's location in relation to streets, alleys, address or other geographical markers.

ATTACHMENT 3

Levels 2 To 4: Standard Interconnection Agreement

Description, Costs and Time Required to
Build and Install the Utility's Interconnection Facilities

This attachment is to be completed by the utility and shall include the following:

1. Required interconnection facilities, including any required metering.
2. An estimate of itemized costs charged by the utility for interconnection, including overheads, based on results from prior studies.
3. An estimate for the time required to build and install the utility's interconnection facilities based on results from prior studies and an estimate of the date upon which the facilities will be completed.

ATTACHMENT 4

Levels 2 To 4: Standard Interconnection Agreement

Operating Requirements for Distributed Generation Facilities Operating in Parallel

The utility shall list specific operating practices that apply to this distributed generation interconnection and the conditions under which each listed specific operating practice applies.

ATTACHMENT 5

Levels 2 To 4: Standard Interconnection Agreement

Monitoring and Control Requirements

This attachment is to be completed by the utility and shall include the following:

1. The utility's monitoring and control requirements must be specified, along with a reference to the utility's written requirements documents from which these requirements are derived.
2. An internet link to the requirements documents.

ATTACHMENT 6

Levels 2 To 4: Standard Interconnection Agreement

Metering Requirements

This attachment is to be completed by the utility and shall include the following:

1. The metering requirements for the distributed generation facility.
2. Identification of the appropriate metering rules filed with the Iowa Utilities Board under subrule 199 IAC 20.2(5), and inspection and testing practices adopted under rule 199 IAC 20.6 that establish these requirements.
3. An internet link to these rules and practices.

ATTACHMENT 7

Levels 2 To 4: Standard Interconnection Agreement

As-Built Documents

This attachment is to be completed by the interconnection customer and shall include the following:

When it returns the certificate of completion to the utility, the interconnection customer shall provide the utility with documents detailing the as-built status of the following:

1. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, and metering equipment.
2. Component specifications for equipment identified in the one-line diagram.
3. Component settings.
4. Proposed sequence of operations.
5. A three-line diagram showing current potential circuits for protective relays.
6. Relay tripping and control schematic diagram.

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

199—45.18(476) Appendix E – Standard interconnection feasibility study agreement.INTERCONNECTION FEASIBILITY STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this _____ day of _____, by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____, and _____, ("utility"), a _____ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modify an existing distributed generation facility consistent with the interconnection request application form submitted by interconnection customer on _____; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system; and

Whereas, interconnection customer has requested utility to perform an interconnection feasibility study to assess the feasibility of interconnecting the proposed distributed generation facility to utility's electric distribution system;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection feasibility study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection feasibility study shall be based upon the information set forth in the interconnection request application form and Attachment A to this Agreement.
4. The interconnection feasibility study shall be based on the technical information provided by interconnection customer in the interconnection request application form, as modified with the written agreement of the Parties. Utility has the right to request additional technical information from interconnection customer during the course of the interconnection feasibility study. If the interconnection customer modifies its interconnection request, the time to complete the interconnection feasibility study may be extended by the utility.
5. In performing the study, utility shall rely on existing studies of recent vintage to the extent practical. The interconnection customer will not be charged for such existing studies; however, interconnection customer is responsible for the cost of applying any existing study to the interconnection customer specific requirements and for any new study that the utility performs.
6. The interconnection feasibility study report must provide the following information:
 - 6.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection,
 - 6.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection, and
 - 6.3 A description and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to utility's electric distribution system as required under Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11(5)"a").

- 7. Interconnection customer shall provide a study deposit equal to 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
- 8. The interconnection feasibility study shall be completed and the results shall be transmitted to interconnection customer within 45 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later. If the interconnection customer's study request involves more than one point of interconnection and configuration, the time to complete the interconnection feasibility study may be extended by the utility.
- 9. Study fees shall be based on actual costs and will be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice must include an itemized listing of employee time and costs expended on the study.
- 10. Interconnection customer shall pay any actual study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice. Utility shall refund any excess deposit amount without interest within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: _____
Name (Printed): _____ Title: _____

[Insert name of utility]

Signed: _____
Name (Printed): _____ Title: _____

ATTACHMENT A
Interconnection Feasibility Study Agreement

Assumptions Used in Conducting the Interconnection Feasibility Study

The interconnection feasibility study will be based upon the information in the interconnection request application form, agreed upon on _____:

1. Point of interconnection and configuration to be studied.

2. Alternative points of interconnection and configurations to be studied.

Note: 1 and 2 are to be completed by the interconnection customer. Any additional assumptions (explained below) may be provided by either the interconnection customer or the utility.

199—45.19(476) Appendix F – Standard interconnection system impact study agreement.INTERCONNECTION SYSTEM IMPACT STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this _____ day of _____, by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____, and _____, ("utility"), a _____ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modifying an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on _____; and

Whereas, interconnection customer desires to interconnect the distributed generation facility to utility's electric distribution system; and

Whereas, utility has completed an interconnection feasibility study and provided the results of said study to interconnection customer (this recital to be omitted if the Parties have agreed to forego the interconnection feasibility study); and

Whereas, interconnection customer has requested utility to perform an interconnection system impact study to assess the impact of interconnecting the distributed generation facility to utility's electric distribution system;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection system impact study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection system impact study shall be based upon the information set forth in the interconnection request application form and in Attachment A to this Agreement.
4. The interconnection system impact study shall be based upon the interconnection feasibility study and the technical information provided by interconnection customer in the interconnection request application form. Utility reserves the right to request additional technical information from interconnection customer. If interconnection customer modifies its proposed point of interconnection, interconnection request, or the technical information provided therein is modified, the time to complete the interconnection system impact study may be extended.
5. The interconnection system impact study report shall provide the following information:
 - 5.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection,
 - 5.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection,
 - 5.3 Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection, and

- 5.4 Description and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to utility's electric distribution system and to address the identified short circuit, thermal overload, voltage, and instability issues as required under Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11(5) "b").
- 6. Interconnection customer shall provide a study deposit equal to 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
- 7. The interconnection system impact study, if required, shall be completed and the results transmitted to interconnection customer within 45 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later. If the interconnection customer's study request involves more than one point of interconnection and configuration, the time to complete the interconnection system impact study may be extended by the utility.
- 8. Study fees shall be based on actual costs and shall be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.
- 9. Interconnection customer shall pay any study costs that exceed the deposit within 30 calendar days after receipt of the invoice. Utility shall refund any excess deposit amount within 30 calendar days of the invoice.

In witness thereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: _____
Name (Printed): _____ Title: _____

[Insert name of utility]

Signed: _____
Name (Printed): _____ Title: _____

ATTACHMENT A
Interconnection System Impact Study Agreement

Assumptions Used in Conducting the Interconnection System Impact Study

The interconnection system impact study shall be based upon the results of the interconnection feasibility study, subject to any modifications in accordance with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11), and the following assumptions:

1. Point of interconnection and configuration to be studied.

2. Alternative Points of interconnection and configurations to be studied.

Note: 1 and 2 are to be completed by the interconnection customer. Any additional assumptions (explained below) may be provided by either the interconnection customer or the utility.

199—45.20(476) Appendix G – Standard interconnection facilities study agreement.INTERCONNECTION FACILITIES STUDY AGREEMENT

This agreement ("Agreement") is made and entered into this _____ day of _____, by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____, and _____, ("utility"), a _____ existing under the laws of the State of Iowa. Interconnection customer and utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modifying an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on _____; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with utility's electric distribution system; and

Whereas, utility has completed an interconnection system impact study and provided the results of said study to interconnection customer; and

Whereas, interconnection customer has requested utility to perform an interconnection facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to interconnect the distributed generation facility;

Now, therefore, in consideration of and subject to the mutual covenants contained in this Agreement, the Parties agree as follows:

1. All terms defined in Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.1) shall have the meanings indicated in that rule when used in this Agreement.
2. Interconnection customer elects and utility shall cause to be performed an interconnection facilities study consistent with Iowa Utilities Board Chapter 45 rules on Electric Interconnection of Distributed Generation Facilities (199 IAC 45.11).
3. The scope of the interconnection facilities study shall be determined by the information provided in Attachment A to this Agreement.
4. An interconnection facilities study report (1) shall provide a description, estimated cost of distribution upgrades, and a schedule for required facilities to interconnect the distributed generation facility to utility's electric distribution system; and (2) shall address all issues identified in the interconnection system impact study (or identified in this study if the system impact study is combined herein).
5. Interconnection customer shall provide a study deposit of 100% of the estimated nonbinding study costs at least 20 business days prior to the date upon which the study commences.
6. In cases where no distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 15 business days after this Agreement is signed by the Parties. In cases where distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 35 business days after this Agreement is signed by the Parties or the complete study deposit is received by the utility, whichever occurs later.
7. Study fees shall be based on actual costs and will be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.

- 8. Interconnection customer shall pay any actual study costs that exceed the deposit within 30 calendar days on receipt of the invoice. Utility shall refund any excess deposit amount within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: _____
Name (Printed): _____ Title: _____

[Insert name of utility]

Signed: _____
Name (Printed): _____ Title: _____

ATTACHMENT A
Interconnection Facilities Study Agreement

Minimum Information that the Interconnection Customer Must Provide with the Interconnection Facilities Study Agreement

Provide location plan and simplified one-line diagram of the distributed generation facilities.

For staged projects, please indicate size and location of planned additional future generation.

On the one-line diagram, indicate the generation capacity attached at each metering location. (Maximum load on CT/PT).

On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT) Amps.

One set of metering is required for each generation connection to the utility's electric distribution system.

Number of generation connections: _____

Will an alternate source of auxiliary power be available during CT/PT maintenance?
Yes _____ No _____

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total distributed generation capacity? Yes _____ No _____
(Please indicate on the one-line diagram).

What type of control system or PLC will be located at the distributed generation facility?
_____.

What protocol does the control system or PLC use? _____.

Please provide a scale drawing of the site. Indicate the point of interconnection, distribution line, and property lines.

Number of third-party easements required for utility's interconnection facilities: _____

.....

To be Completed in Coordination with the Utility

Is the distributed generation facility located in utility's service area?

Yes _____ No _____

If No, please provide name of local provider: _____

Please provide the following proposed schedule dates:

Begin construction date: _____

Generator step-up transformers receive back feed power date: _____

Commissioning testing date: _____

Witness testing date: _____

Commercial operation date: _____

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

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

[Filed ARC 8859B (Notice ARC 8201B, IAB 10/7/09), IAB 6/16/10, effective 7/21/10]

[Filed ARC 1359C (Notice ARC 1169C, IAB 11/13/13), IAB 3/5/14, effective 4/9/14]

CHAPTER 51
ELIGIBILITY

[Prior to 7/1/83, Social Services[770] Ch 51]

[Prior to 2/11/87, Human Services[498]]

441—51.1(249) Application for other benefits. An applicant or any other person whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits, including supplemental security income or the family investment program, for which the person may be eligible. The person must cooperate in the eligibility procedures while making application for the other benefits. Failure to cooperate shall result in ineligibility for state supplementary assistance.

This rule is intended to implement Iowa Code section 249.3.

441—51.2(249) Supplementation. Any supplemental payment made on behalf of the recipient from any source other than a nonfederal governmental entity shall be considered as income, and the payment shall be used to reduce the state supplementary assistance payment.

441—51.3(249) Eligibility for residential care.

51.3(1) Licensed facility. Payment for residential care shall be made only when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections and appeals pursuant to laws governing health care facilities.

51.3(2) Physician's statement. Payment for residential care shall be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification shall be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

51.3(3) Income eligibility. The resident shall be income eligible when the income according to 441—paragraph 52.1(3) "a" is less than 31 times the per diem rate of the facility. Partners in a marriage who both enter the same room of the residential care facility in the same month shall be income eligible for the initial month when their combined income according to 441—paragraph 52.1(3) "a" is less than twice the amount of allowed income for one person (31 times the per diem rate of the facility).

51.3(4) Diversion of income. Rescinded IAB 5/1/91, effective 7/1/91.

51.3(5) Resources. Rescinded IAB 5/1/91, effective 7/1/91.

This rule is intended to implement Iowa Code section 249.3.

441—51.4(249) Dependent relatives.

51.4(1) Income. Income of a dependent relative shall be less than \$370. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

51.4(2) Resources. The resource limitation for a recipient and a dependent child or parent shall be \$2,000. The resource limitation for a recipient and a dependent spouse shall be \$3,000. The resource limitation for a recipient, spouse, and dependent child or parent shall be \$3,000.

51.4(3) Living in the home. A dependent relative shall be eligible until out of the recipient's home for a full calendar month starting at 12:01 a.m. on the first day of the month until 12 midnight on the last day of the same month.

51.4(4) Dependency. A dependent relative may be the recipient's ineligible spouse, parent, child, or adult child who is financially dependent upon the recipient. A relative shall not be considered to be financially dependent upon the recipient when the relative is living with a spouse who is not the recipient.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

[ARC 7605B, IAB 3/11/09, effective 4/15/09; ARC 9965B, IAB 1/11/12, effective 1/1/12; ARC 0064C, IAB 4/4/12, effective 5/9/12; ARC 0489C, IAB 12/12/12, effective 1/1/13; ARC 0633C, IAB 3/6/13, effective 5/1/13; ARC 1268C, IAB 1/8/14, effective 1/1/14; ARC 1352C, IAB 3/5/14, effective 4/9/14]

441—51.5(249) Residence. A recipient of state supplementary assistance shall be living in the state of Iowa.

This rule is intended to implement Iowa Code section 249.3.

441—51.6(249) Eligibility for supplement for Medicare and Medicaid eligibles. The following eligibility requirements are specific to the supplement for Medicare and Medicaid eligibles:

51.6(1) Medicaid eligibility. The recipient must be eligible for and receiving full medical assistance benefits under Iowa Code chapter 249A without regard to eligibility based on receipt of state supplementary assistance under this rule, and without being required to meet a spenddown or pay a premium to be eligible for medical assistance benefits.

51.6(2) SSI eligibility. The recipient shall meet all eligibility requirements for supplemental security income benefits other than limits on substantial gainful activity and income.

51.6(3) Not otherwise eligible. The recipient must not be eligible for benefits under another state supplementary assistance group.

51.6(4) Medicare eligibility. The recipient must be currently eligible for Medicare Part B.

51.6(5) Living arrangement. A recipient may live in one of the following:

- a. The person's own home.
- b. The home of another person.
- c. A group living arrangement.
- d. A medical facility.

51.6(6) Income. Income of a recipient shall be within the income limit for the person's Medicaid eligibility group, but must exceed 120 percent of the federal poverty level.

This rule is intended to implement Iowa Code section 249.3 as amended by 2005 Iowa Acts, House File 825, section 108.

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, \$370 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

[ARC 7605B, IAB 3/11/09, effective 4/15/09; ARC 9965B, IAB 1/11/12, effective 1/1/12; ARC 0064C, IAB 4/4/12, effective 5/9/12; ARC 0489C, IAB 12/12/12, effective 1/1/13; ARC 0633C, IAB 3/6/13, effective 5/1/13; ARC 1268C, IAB 1/8/14, effective 1/1/14; ARC 1352C, IAB 3/5/14, effective 4/9/14]

441—51.8(249) Furnishing of social security number. As a condition of eligibility applicants or recipients of state supplementary assistance must furnish their social security account numbers or proof of application for the numbers if they have not been issued or are not known and provide their numbers upon receipt.

Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicants or recipients are cooperating in providing information necessary for issuance of their social security numbers.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

441—51.9(249) Recovery.

51.9(1) Definitions.

“Administrative overpayment” means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

“Agency error” means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

“Client” means a current or former applicant or recipient of state supplementary assistance.

“*Client error*” means assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.10(249A).

“*Department*” means the department of human services.

51.9(2) *Amount subject to recovery.* The department shall recover from a client all state supplementary assistance funds incorrectly expended to or on behalf of the client, or when conditional benefits have been granted.

a. The department also shall seek to recover the state supplementary assistance granted during the period of time that conditional benefits were correctly granted the client under the policies of the supplemental security income program.

b. The incorrect expenditures may result from client or agency error, or administrative overpayment.

51.9(3) *Notification.* All clients shall be promptly notified when it is determined that assistance was incorrectly expended. Notification shall include for whom assistance was paid; the time period during which assistance was incorrectly paid; the amount of assistance subject to recovery, when known; and the reason for the incorrect expenditure.

51.9(4) *Source of recovery.* Recovery shall be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery must come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

51.9(5) *Repayment.* The repayment of incorrectly expended state supplementary assistance funds shall be made to the department.

51.9(6) *Appeals.* The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 3/1/77]

[Filed emergency 5/24/77—published 6/15/77 effective 7/1/77]

[Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]

[Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]

[Filed 6/30/81, Notice 4/29/81—published 7/22/81, effective 9/1/81]

[Filed 10/23/81, Notice 9/2/81—published 11/11/81, effective 1/1/82]

[Filed 11/20/81, Notice 9/30/81—published 12/9/81, effective 2/1/82]

[Filed emergency 9/23/82—published 10/13/82, effective 9/23/82]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 11/18/83, after Notice 10/12/83—published 12/7/83, effective 1/1/84]

[Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]

[Filed without Notice 1/22/85—published 2/13/85, effective 4/1/85]

[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]

[Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]

[Filed 4/29/86, Notice 3/12/86—published 5/21/86, effective 8/1/86]

[Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]

[Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]

- [Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]
- [Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
- [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
- [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
- [Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]
- [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed 2/13/92, Notices 12/25/91, 1/8/92—published 3/4/92, effective 5/1/92]
- [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed 12/16/93, Notice 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]
- [Filed emergency 12/14/00—published 1/10/01, effective 1/1/01]
- [Filed 2/14/01, Notice 1/10/01—published 3/7/01, effective 5/1/01]
- [Filed emergency 12/12/01—published 1/9/02, effective 1/1/02]
- [Filed 2/14/02, Notice 1/9/02—published 3/6/02, effective 5/1/02]
- [Filed emergency 5/9/02—published 5/29/02, effective 6/1/02]
- [Filed 7/15/02, Notice 5/29/02—published 8/7/02, effective 10/1/02]
- [Filed emergency 12/12/02—published 1/8/03, effective 1/1/03]
- [Filed emergency 11/19/03—published 12/10/03, effective 1/1/04]
- [Filed emergency 8/12/04 after Notice 6/23/04—published 9/1/04, effective 8/12/04]
- [Filed emergency 12/14/04—published 1/5/05, effective 1/1/05]
- [Filed 2/10/05, Notice 1/5/05—published 3/2/05, effective 4/6/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
- [Filed 10/21/05, Notice 7/6/05—published 11/9/05, effective 12/14/05]
- [Filed emergency 12/14/05—published 1/4/06, effective 1/1/06]
- [Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
- [Filed emergency 12/13/06—published 1/3/07, effective 1/1/07]
- [Filed 3/14/07, Notice 1/3/07—published 4/11/07, effective 5/16/07]
- [Filed emergency 12/12/07—published 1/2/08, effective 1/1/08]
- [Filed 3/12/08, Notice 1/2/08—published 4/9/08, effective 5/14/08]
- [Filed emergency 12/10/08—published 12/31/08, effective 1/1/09]
- [Filed ARC 7605B (Notice ARC 7472B, IAB 12/31/08), IAB 3/11/09, effective 4/15/09]
- [Filed Emergency ARC 9965B, IAB 1/11/12, effective 1/1/12]
- [Filed ARC 0064C (Notice ARC 9964B, IAB 1/11/12), IAB 4/4/12, effective 5/9/12]
- [Filed Emergency ARC 0489C, IAB 12/12/12, effective 1/1/13]
- [Filed ARC 0633C (Notice ARC 0488C, IAB 12/12/12), IAB 3/6/13, effective 5/1/13]
- [Filed Emergency ARC 1268C, IAB 1/8/14, effective 1/1/14]
- [Filed ARC 1352C (Notice ARC 1267C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 52
PAYMENT

[Prior to 7/1/83, Social Services[770] Ch 52]
[Prior to 2/11/87, Human Services[498]]

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted.

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

\$783	Care allowance
\$100	Personal allowance
<hr/>	
\$883	Total

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient’s home.

- a. Aged or disabled client and a dependent relative \$1,091
- b. Aged or disabled client, eligible spouse, and a dependent relative \$1,452
- c. Blind client and a dependent relative \$1,113
- d. Blind client, aged or disabled spouse, and a dependent relative \$1,474
- e. Blind client, blind spouse, and a dependent relative \$1,496

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of \$29.66. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) When income is earned, impairment related work expenses, as defined by SSI plus \$65 plus one-half of any remaining earned income.
- (2) An allowance of \$100 to meet personal expenses and Medicaid copayment expenses.
- (3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse’s countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard shall be made.
- (4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent’s countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.
- (5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family life home, an in-home health-related care provider, a home- and community-based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry shall not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment shall be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment shall be made in the form of a grant to the recipient on a post payment basis.

d. Payment shall not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form 470-0042, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions at rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed 20 days in any calendar month when the resident is absent due to hospitalization. A resident may not start state supplementary assistance on reserve bed days.

g. The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.

(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.

(2) To compute the facilitywide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is \$22 per month.

52.1(5) *In-home, health-related care.* Payment to a person receiving in-home, health-related care shall be made in accordance with rules in 441—Chapter 177.

52.1(6) *Minimum income level cases.* The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions which were in effect in October 1972 shall be utilized.

52.1(7) *Supplement for Medicare and Medicaid eligibles.* Payment to a person eligible for the supplement for Medicare and Medicaid eligibles shall be \$1 per month.

This rule is intended to implement Iowa Code chapter 249.

[ARC 7605B, IAB 3/11/09, effective 4/15/09; ARC 8440B, IAB 1/13/10, effective 3/1/10; ARC 9965B, IAB 1/11/12, effective 1/1/12; ARC 0064C, IAB 4/4/12, effective 5/9/12; ARC 0489C, IAB 12/12/12, effective 1/1/13; ARC 0633C, IAB 3/6/13, effective 5/1/13; ARC 1268C, IAB 1/8/14, effective 1/1/14; ARC 1352C, IAB 3/5/14, effective 4/9/14]

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed emergency 6/9/76—published 6/28/76, effective 7/1/76]

[Filed emergency 7/29/76—published 8/23/76, effective 9/1/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

- [Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 3/1/77]
 - [Filed emergency 5/24/77—published 6/15/77, effective 7/1/77]
- [Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]
 - [Filed emergency 5/8/78—published 5/31/78, effective 5/24/78]
 - [Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]
- [Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]
- [Filed 11/7/78, Notice 4/19/78—published 11/29/78, effective 1/3/79]
 - [Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]
 - [Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
 - [Filed emergency 6/30/81 —published 7/22/81, effective 7/1/81]
- [Filed 2/26/82, Notice 10/28/81—published 3/17/82, effective 5/1/82]
 - [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
 - [Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
- [Filed 2/25/83, Notice 1/5/83—published 3/16/83, effective 5/1/83]
 - [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
 - [Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]
- [Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]
- [Filed emergency 11/18/83, after Notice 10/12/83—published 12/7/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
 - [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
 - [Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
 - [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed emergency after Notice 6/14/85, Notice 5/8/85—published 7/3/85, effective 8/1/85]
 - [Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]
- [Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]
 - [Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]
- [Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]
 - [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
 - [Filed emergency 12/22/86—published 1/14/87, effective 1/1/87]
 - [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
 - [Filed emergency 12/10/87—published 12/30/87, effective 1/1/88]
 - [Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]
 - [Filed emergency 12/8/88—published 12/28/88, effective 1/1/89]
 - [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
 - [Filed emergency 11/16/89—published 12/13/89, effective 1/1/90]
- [Filed 2/16/90, Notice 12/13/89—published 3/7/90, effective 5/1/90]
 - [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
- [Filed 8/16/90, Notice 7/11/90—published 9/5/90, effective 11/1/90]
 - [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
 - [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
 - [Filed 4/11/91, Notice 3/6/91—published 5/1/91, effective 7/1/91]
- [Filed 9/18/91, Notice 7/24/91—published 10/16/91, effective 12/1/91]
 - [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]¹
 - [Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 5/1/92]
 - [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
 - [Filed 4/16/92, Notice 1/8/92—published 5/13/92, effective 7/1/92]
 - [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
 - [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]

- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed 12/16/93, Notice 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 1/5/94—published 3/2/94, effective 5/1/94]
- [Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
- [Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
- [Filed emergency 10/12/94—published 11/9/94, effective 11/1/94]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 12/15/94, Notice 11/9/94—published 1/4/95, effective 3/1/95]
- [Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
- [Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
- [Filed emergency 10/31/95—published 11/22/95, effective 11/1/95]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 1/10/96, Notice 11/22/95—published 1/31/96, effective 4/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
- [Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed emergency 3/12/97—published 4/9/97, effective 4/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed 5/14/97, Notice 4/9/97—published 6/4/97, effective 8/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]
- [Filed emergency 7/13/00—published 8/9/00, effective 8/1/00]
- [Filed emergency 10/11/00—published 11/1/00, effective 11/15/00]
- [Filed 11/8/00, Notice 8/9/00—published 11/29/00, effective 2/1/01]
- [Filed emergency 12/14/00—published 1/10/01, effective 1/1/01]
- [Filed 2/14/01, Notice 1/10/01—published 3/7/01, effective 5/1/01]
- [Filed emergency 4/11/01—published 5/2/01, effective 5/1/01]
- [Filed 6/13/01, Notice 5/2/01—published 7/11/01, effective 9/1/01]
- [Filed emergency 7/11/01—published 8/8/01, effective 8/1/01]
- [Filed 10/10/01, Notice 8/8/01—published 10/31/01, effective 1/1/02]
- [Filed emergency 12/12/01—published 1/9/02, effective 1/1/02]
- [Filed 2/14/02, Notice 1/9/02—published 3/6/02, effective 5/1/02]
- [Filed emergency 5/9/02—published 5/29/02, effective 6/1/02]
- [Filed 7/15/02, Notice 5/29/02—published 8/7/02, effective 10/1/02]
- [Filed emergency 12/12/02—published 1/8/03, effective 1/1/03]
- [Filed emergency 11/19/03—published 12/10/03, effective 1/1/04]
- [Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 2/1/04]
- [Filed emergency 8/12/04 after Notice 6/23/04—published 9/1/04, effective 8/12/04]
- [Filed emergency 12/14/04—published 1/5/05, effective 1/1/05]
- [Filed 2/10/05, Notice 1/5/05—published 3/2/05, effective 4/6/05]
- [Filed emergency 12/14/05—published 1/4/06, effective 1/1/06]
- [Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
- [Filed emergency 12/13/06—published 1/3/07, effective 1/1/07]
- [Filed 3/14/07, Notice 1/3/07—published 4/11/07, effective 5/16/07]

[Filed emergency 12/12/07—published 1/2/08, effective 1/1/08]
[Filed 3/12/08, Notice 1/2/08—published 4/9/08, effective 5/14/08]
[Filed emergency 12/10/08—published 12/31/08, effective 1/1/09]
[Filed ARC 7605B (Notice ARC 7472B, IAB 12/31/08), IAB 3/11/09, effective 4/15/09]
[Filed Without Notice ARC 8440B, IAB 1/13/10, effective 3/1/10]
[Filed Emergency ARC 9965B, IAB 1/11/12, effective 1/1/12]
[Filed ARC 0064C (Notice ARC 9964B, IAB 1/11/12), IAB 4/4/12, effective 5/9/12]
[Filed Emergency ARC 0489C, IAB 12/12/12, effective 1/1/13]
[Filed ARC 0633C (Notice ARC 0488C, IAB 12/12/12), IAB 3/6/13, effective 5/1/13]
[Filed Emergency ARC 1268C, IAB 1/8/14, effective 1/1/14]
[Filed ARC 1352C (Notice ARC 1267C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

¹ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

CHAPTER 58
EMERGENCY ASSISTANCE

DIVISION I
IOWA DISASTER AID INDIVIDUAL ASSISTANCE GRANT PROGRAM

PREAMBLE

This division implements a state program of financial assistance to meet disaster-related expenses, food-related costs, or serious needs of individuals or families who are adversely affected by a state-declared disaster emergency. The program is intended to meet needs that cannot be met by other means of financial assistance.

441—58.1(29C) Definitions.

“*Department*” means the Iowa department of human services.

“*Emergency management coordinator*” means the person appointed by the local emergency management commission pursuant to Iowa Code sections 29C.9 and 29C.10 to be responsible for development of the countywide emergency operations plan and for coordination and assistance to government officials when an emergency or disaster occurs.

“*Household*” means all adults and children who lived in the pre-disaster residence who request assistance, as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

“*Necessary expense*” means the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need.

“*Safe, sanitary, and secure*” means free from disaster-related health hazards.

“*Serious need*” means the item or service is essential to the household to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

[ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.2(29C) Program implementation.

58.2(1) *Disaster declaration.* The Iowa individual assistance grant program (IIAGP) shall be implemented when the governor issues a declaration of a state of disaster emergency that authorizes individual assistance. The program shall be in effect only in those counties named in the declaration. Assistance shall be provided for a period not to exceed 120 days from the date of declaration.

58.2(2) *Voucher system.* The IIAGP will be implemented through a reimbursement or voucher system.

[ARC 9128B, IAB 10/6/10, effective 10/1/10; ARC 9312B, IAB 12/29/10, effective 3/1/11; ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.3(29C) Application for assistance. To request assistance for disaster-related expenses, the household shall complete Form 470-4448, Individual Disaster Assistance Application, and submit it within 45 days of the disaster declaration to the contracted administrative entity along with: (1) receipts for the claimed expenses or (2) a request to participate in a voucher system.

58.3(1) Application forms are available from an approved administrative entity, as well as the Internet Web site of the department at www.dhs.iowa.gov.

58.3(2) The application shall include:

a. A declaration of the household’s annual income, accompanied by:

(1) A current pay stub, W-2 form, or income tax return, or

(2) Documentation of current enrollment in an assistance program administered by the department, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.

b. An authorization to release confidential information to personnel involved in administering the program.

c. A certification of the accuracy of the information provided.

d. An assurance that the household had no insurance coverage for claimed items.

e. A commitment to refund any part of a grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to local community development groups and charities, the Small Business Administration, or the Federal Emergency Management Administration.

f. A short, handwritten narrative of how the disaster event caused the claimed loss.

g. A copy of a picture identification document for each adult applicant.

h. When vehicle damage is claimed, current copies of the vehicle registration and liability insurance card.

[ARC 9128B, IAB 10/6/10, effective 10/1/10; ARC 9312B, IAB 12/29/10, effective 3/1/11; ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.4(29C) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.4(1) The household's residence was located in the area identified in the disaster declaration during the designated incident period and the household verifies occupancy at that residence.

58.4(2) Household members are citizens of the United States or are legally residing in the United States.

58.4(3) The household's self-declared annual income is at or less than 200 percent of the federal poverty level for a household of that size.

a. Poverty guidelines are updated annually.

b. All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income. Proof of income is required.

58.4(4) The household has disaster-related expenses or serious needs that are not covered by insurance or that are less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.

58.4(5) The household has not previously received assistance from this program or another program for the same loss.

[ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.5(29C) Eligible categories of assistance. The maximum assistance available to a household in a single disaster is \$5,000. Assistance is available under the program for the following disaster-related expenses:

58.5(1) Assistance may be issued for personal property, including repair or replacement of the following items, based on the item's condition:

a. Kitchen items, excluding appliances covered under subparagraph 58.5(1)"d"(8), up to a maximum of \$560, including:

(1) Equipment and furnishings, up to a maximum of \$560.

(2) Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.

b. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.

c. Clothing and bedroom furnishings, up to a maximum of \$875, including:

(1) Mattress, box spring, frame, and storage containers, up to a maximum of \$250 per person.

(2) Clothing, up to a maximum of \$145 per person.

d. Other items, including:

(1) Infant car seat, up to a maximum of \$40.

(2) Dehumidifier, up to a maximum of \$150.

(3) Sump pump (in a flood event only), up to a maximum of \$200 installed.

(4) Electrical or mechanical repairs, up to a maximum of \$1,000.

(5) Water heater, up to a maximum of \$425 installed.

(6) Vehicle repair, up to a maximum of \$500.

(7) Heating and air-conditioning systems, up to a maximum of \$2,100 installed. Air conditioning is covered only with proof of medical necessity.

(8) Kitchen or laundry appliances up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,100.

58.5(2) Assistance may be issued for home repair as needed to make the home safe, sanitary, and secure, up to a maximum of \$5,000.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

b. Assistance may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Debris removal, including trees, up to a maximum of \$1,000.

(4) Replacement or repair of other items of necessity as approved by the department on a case-by-case basis up to a maximum of \$5,000.

c. Repairs to rental property or landlord-owned equipment are excluded under this program.

58.5(3) Assistance may be issued for temporary housing assistance, up to a limit of \$50 per day, for lodging at a licensed establishment, such as a hotel or motel, if the household's home is destroyed, uninhabitable, inaccessible, or unavailable to the household.

[ARC 9312B, IAB 12/29/10, effective 3/1/11; ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.6(29C) Eligibility determination and payment.

58.6(1) The contracted administrative entity or designee shall confirm that the address provided on the application is a valid address and is reasonably believed to be in the disaster-affected area. The department reserves the right to view the damaged property prior to providing any assistance pursuant to IIAGP.

58.6(2) Designated staff in the department shall:

a. Monitor applicants' names and addresses as reports are submitted by the administrative entity.

b. Monitor, review, and provide timely submission of invoices by the administrative entity for payment and shall process appeals.

58.6(3) For applications with a voucher or reimbursement request, the department or its designee shall:

a. Determine eligibility and the amount of payment within the rules of the program.

b. Notify the applicant household of the eligibility decision.

c. Authorize vouchers to an eligible household to purchase needed goods and services.

d. Pay vendors for goods and services purchased with vouchers.

[ARC 9128B, IAB 10/6/10, effective 10/1/10; ARC 9312B, IAB 12/29/10, effective 3/1/11; ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.7(29C) Contested cases.

58.7(1) *Reconsideration.*

a. The household may request reconsideration of decisions regarding eligibility and the amount of assistance awarded.

b. To request reconsideration, the household shall submit a written request to the DHS Office of the Director, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the letter notifying the household of the department's decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days of receipt of the request.

58.7(2) *Appeal.* The household may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency.

[ARC 9312B, IAB 12/29/10, effective 3/1/11; ARC 1353C, IAB 3/5/14, effective 5/1/14]

441—58.8(29C) Discontinuance of program.

58.8(1) *Deferral to federal assistance.* Upon declaration of a disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121 to 5206, the Iowa individual assistance grant program administered under this chapter shall be discontinued in the geographic area included in the presidential declaration. Upon issuance of the presidential declaration:

- a. No more applications shall be accepted.
- b. Any applications that are in process but are not yet approved shall be denied.
- c. Persons seeking assistance under this program shall be advised to apply for federal disaster assistance.

58.8(2) *Exhaustion of funds.* The program shall be discontinued when funds available for the program have been exhausted. To ensure equitable treatment, applications for assistance shall be approved on a first-come, first-served basis until all funds have been depleted. “First-come, first-served” is determined by the date the application is approved for payment.

a. *Partial payment.* Because funds are limited, applications may be approved for less than the amount requested. Payment cannot be approved beyond the amount of funds available.

b. *Reserved funds.* A portion of allocated funds shall be reserved for final appeal decisions reversing the department’s denial that are received after funds for the program have been awarded.

c. *Untimely applications.* Applications received after the program is discontinued shall be denied. These rules are intended to implement Iowa Code chapter 29C.

441—58.9 to 58.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—EMERGENCY ASSISTANCE
[Prior to 10/13/93, 441—58.1 to 58.11]

Rescinded IAB 4/7/10, effective 5/12/10

441—58.21 to 58.40 Reserved.

DIVISION III
TEMPORARY MEASURES RELATED TO DISASTERS

441—58.41(217) Purpose. The rules in this division are intended to allow the department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. These rules temporarily supersede departmental rules that would otherwise apply, with the primary purpose of reducing barriers to accessing and receiving services that may result from the emergency. The rules shall be tailored to meet special circumstances that arise from a specific disaster emergency and shall be time-limited.

This rule is intended to implement Iowa Code section 217.6.
[ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.42(234,237A,239B,249,249A,249J,514I) Extension of scheduled reporting and review requirements. Normal scheduled reporting, review, recertification, redetermination, or similar requirements related to continued eligibility are amended as follows:

58.42(1) *Scheduled actions due in June 2008.* For the month of June 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in the most affected counties during the month. For all programs except food assistance, the designated counties are Black Hawk, Bremer, Butler, Johnson, and Linn.

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);
3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);

5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(2) *Scheduled actions due in July and August 2008.* For the months of July and August 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in any county of the state:

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);
3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);
5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(3) *Next scheduled action due.* For those households affected under subrules 58.42(1) and 58.42(2), the next report, review, recertification, or redetermination shall be scheduled as if the action due in June, July, or August 2008 had occurred. For example, if a six-month review was to have occurred in June 2008, the next review will be due in December 2008. Likewise, if a 12-month recertification was due in July 2008, the next recertification will be due in July 2009.

58.42(4) *Continuing to report and act on changes.* Other than as provided by this rule, households shall continue to comply with program requirements for reporting changes in circumstances. Good cause provisions for not reporting changes timely shall apply as provided by existing rules. The department shall continue to act on all changes reported or otherwise known to the department that may affect eligibility or benefits during the extended reporting, review, recertification and redetermination periods provided under this rule.

This rule is intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.43(237A) *Need for child care services.* State child care assistance eligibility requirements concerning need for service in rule 441—170.2(237A,239B) shall be held in abeyance for households residing in governor-declared disaster counties during the months of June, July, and August 2008. Households in those counties that previously met the requirement shall be considered to continue to meet the requirement for those three months if the disaster and ensuing recovery temporarily prevent the household from otherwise meeting this requirement.

This rule is intended to implement Iowa Code section 237A.13. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.44(249A,249J,514I) *Premium payments.* Individuals residing in any Iowa county declared by the governor to be a disaster area who would otherwise have their assistance under 441—Chapter 75 (medical assistance), 441—Chapter 86 (HAWK-I), or 441—Chapter 92 (IowaCare) canceled for failure to make a premium payment in the months of June or July 2008 shall not have their assistance canceled for this reason.

This rule is intended to implement Iowa Code chapters 249A, 249J, and 514I. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.45(249A) *Citizenship and identity.* Citizenship and identity requirements under 441—Chapter 75 for medical assistance applicants shall be held in abeyance for the months of June, July, and August 2008, for individuals residing in counties declared disaster areas by the governor as provided in this rule.

58.45(1) An affidavit may be used to establish both citizenship and identity when other forms of verification are not available and the department is unable to obtain verification through a match with vital records maintained by the department of public health.

58.45(2) An individual approved for medical assistance under this rule shall be granted a certification period of only three months. At the end of the three-month period, the individual shall be required

to provide documentation of citizenship and identity as otherwise required under 441—Chapter 75 to continue eligibility.

This rule is intended to implement Iowa Code chapter 249A.
[ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.46 to 58.50 Reserved.

DIVISION IV
IOWANS HELPING IOWANS UNMET NEEDS DISASTER ASSISTANCE PROGRAM

PREAMBLE

This division implements a program of state assistance to address unmet disaster-related expenses that cannot be met by other financial assistance. The program provides assistance for repair or replacement of personal property, home repair, food assistance, child care, and temporary housing to households whose income is less than 300 percent of the federal poverty level. The amount of assistance available to a household is capped at \$2,500.

The program is administered by the department of human services in coordination with the rebuild Iowa office and local administrative entities designated by the county boards of supervisors.
[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.51(234) Definitions.

“*Department*” means the Iowa department of human services.

“*Household*” means all adults and children who lived in the pre-disaster residence who request individual assistance (not including landlords or other businesses), as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

“*Local administrative entity*” means a county-appointed fiscal entity that performs direct work with households seeking assistance for unmet needs. The local administrative entity certifies the assistance that each household may receive and issues direct reimbursement or purchase vouchers for certified goods or services.

“*Unmet need*” means an item or service needed to overcome a disaster-related hardship, injury, or adverse condition due to an eligible federally declared disaster resulting in costs or damages related to personal property, home repair, food assistance, child care, or temporary housing for which the household has not received adequate assistance from any federal, state, nonprofit, or faith-based agency.
[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.52(234) Program implementation. The Iowans helping Iowans unmet needs disaster assistance program shall be in effect September 15, 2010. This program is available for households affected by natural disasters in those areas identified by the President’s Major Disaster Declaration for Individual Assistance, FEMA-1930-DR.

58.52(1) Funding. Funding for the program is established by the governor of Iowa through the Iowans helping Iowans program. The rebuild Iowa office will establish a methodology to distribute the funding among the counties in presidentially declared disaster areas.

58.52(2) Local administration. To implement the program, the county board of supervisors shall appoint a local administrative entity to administer the program for that county.

- a.* The local administrative entity may be, but is not limited to:
- (1) A local community organization active in disaster (COAD),
 - (2) A local long-term recovery committee (LTRC),
 - (3) A nonprofit organization,
 - (4) A faith-based organization, or
 - (5) A regional or statewide LTRC.

b. The appointed local administrative entity shall enter into a contract with the department on Form FA 08-30-2010, Fiscal Agent Contract. The contract shall specify the terms for the administration of unmet needs benefits.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.53(234) Application for assistance. To request financial assistance for unmet disaster needs expenses, the household shall complete Form 470-4689, Iowans Helping Iowans Unmet Needs Disaster Assistance Program, and submit the form to the local administrative entity.

58.53(1) Application forms are available from the local administrative entity. Individuals can find their local administrative entity by calling the rebuild Iowa office toll-free at (866)849-0323.

58.53(2) The application shall include:

a. A declaration of the household's annual gross income.
b. A release of confidential information to personnel involved in administering the program.
c. An assurance that the household had no insurance coverage for claimed items or services.
d. A commitment to refund any part of a grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to other state assistance, local community development groups, charities or faith-based agencies, the Small Business Administration, or the Federal Emergency Management Administration.

e. A copy of a photo identification document for each adult applicant.

f. When vehicle damage is claimed, current copies of the vehicle registration and liability insurance card.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.54(234) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.54(1) The household's residence was located in the disaster area identified by a presidential declaration as described in rule 441—58.52(234), and the household verifies occupancy at that residence.

58.54(2) Household members are citizens of the United States or are legally residing in the United States.

58.54(3) The household's self-declared annual income is at or less than 300 percent of the federal poverty level for a household of that size.

a. Poverty level guidelines are updated annually.

b. All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income.

58.54(4) The household has disaster-related expenses not covered by insurance, or the claim is less than or equal to the deductible amount. This program shall not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.

58.54(5) The household has not previously received assistance from this program or another program, such as but not limited to other state assistance, local community development groups, charities or faith-based agencies, the Small Business Administration, or the Federal Emergency Management Administration, for the same loss. The applicant has applied with the Small Business Administration and the Federal Emergency Management Administration but did not receive an award for the items or services included in the unmet needs application.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.55(234) Eligible categories of assistance. The maximum assistance available to a household for a single disaster is \$2,500. Assistance is available under the program for the following disaster-related expenses:

1. Personal property.
2. Home repair.
3. Food assistance.
4. Child care.

5. Temporary housing.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.56(234) Eligibility determination and payment.

58.56(1) Duties of local administrative entity. The local administrative entity shall perform the following duties:

- a. Accept the household's application.
- b. Certify that:
 - (1) The address provided on the application is a valid address in the disaster-affected area,
 - (2) Disaster-related expenses were a result of the covered disaster,
 - (3) The household has presented reasonable documentation or receipts for expenses incurred or has reasonable estimates for eligible costs for issuance of a voucher to secure specific eligible goods or services, and
 - (4) Funds remain available.
- c. Determine the amount of assistance the household is eligible to receive by category of assistance and provide the rationale for that amount.
- d. Provide the signature of local administrative entity staff making the certification and the date of certification.
- e. Notify the applicant household of the certification decision and issue to an approved household:
 - (1) Reimbursement for documented expenses, or
 - (2) A voucher to secure specific eligible goods or services.
- f. Retain a copy of the household's Form 470-4689, Iowans Helping Iowans Unmet Needs Disaster Assistance Program, and all documentation.
- g. Report weekly to the rebuild Iowa office regarding expenditures. Weekly reports shall be in the format prescribed in the agreement.
- h. Complete a final reconciliation to substantiate expenditures.
- i. Return any unexpended funds to the department within 30 days of the final expenditure or June 30, 2011.

58.56(2) Local administrative expenses. A local administrative entity may allocate no more than 5 percent of the amount of assistance provided to households as an administrative expense. Administrative expenses shall be detailed on the weekly report of expenditures.

58.56(3) Duties of disaster case management office. Designated staff in the rebuild Iowa disaster case management office shall:

- a. Ensure that a local administrative entity is designated in each county affected.
- b. Coordinate contact between applicants and their local administrative entity.
- c. Support the reconsideration process.

58.56(4) Duties of the department. Designated department staff shall:

- a. Process grant payments to the local administrative entity or its designee.
- b. Process appeals.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.57(234) Contested cases.

58.57(1) Reconsideration. The household may request reconsideration of the local administrative entity's decision regarding certification of eligible unmet needs and the amount of reimbursement awarded.

- a. To request reconsideration, the household shall submit a written request to the Rebuild Iowa Office, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319, within 15 days of the date of the local administrative entity's notification to the household of its decision.
- b. The rebuild Iowa disaster recovery case management office shall:
 - (1) Review any additional evidence or documentation submitted,
 - (2) Issue a reconsideration decision within 15 days of receipt of the request, and
 - (3) Notify the household of the reconsideration decision.

58.57(2) Appeal. The household may appeal the rebuild Iowa office reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted:

- (1) In writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information;
- (2) To the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114;
- (3) Within 15 days of the date of the reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the department.
[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

441—58.58(234) Discontinuance of program. The Iowans helping Iowans unmet needs disaster assistance program administered under this division shall be discontinued upon exhaustion of allocated funds or on June 30, 2011, whichever occurs first.

[ARC 9130B, IAB 10/6/10, effective 9/15/10; ARC 9313B, IAB 12/29/10, effective 2/2/11]

These rules are intended to implement Iowa Code section 234.6.

441—58.59 and 58.60 Reserved.

DIVISION V
TICKET TO HOPE PROGRAM

PREAMBLE

This division implements the ticket to hope program, a mental health counseling program funded through a social services emergency disaster relief grant that was authorized by Public Law 110-329, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009. The program pays for professional mental health evaluation and treatment services for individuals and families who have been affected by the weather-related disasters of 2008.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.61(234) Definitions.

“*Department*” means the Iowa department of human services.

“*Ticket to hope*” means the mental health counseling program for individuals and families who have been directly affected by the weather-related disasters of 2008.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.62(234) Application process. The process for obtaining assistance from the ticket to hope program is as follows:

58.62(1) A person requesting assistance shall contact the Iowa concern hotline by telephone at 1-800-447-1985.

58.62(2) The Iowa concern hotline shall gather information and determine eligibility for ticket to hope services based on criteria established in this division.

58.62(3) The Iowa concern hotline shall send to each eligible applicant a packet of information that includes:

- a.* An introductory cover letter;
- b.* A list of participating providers;
- c.* An authorization form for one 45- to 50-minute session (valid for 30 days); and
- d.* A demographic data form that includes a unique numeric client identifier.

58.62(4) The eligible applicant shall:

- a.* Make an appointment with an approved provider; and
- b.* Give the authorization and demographic data forms to the provider at the time of the appointment.

58.62(5) After the eligible applicant meets with the provider, the applicant may call the Iowa concern hotline and receive authorization for up to seven additional sessions. A new authorization form shall be issued for each session.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.63(234) Eligibility criteria. To be eligible for assistance, a person living in Iowa must report:

1. That the impact of the 2008 disaster has impaired the person's ability to carry out normal daily functions to some extent; and
2. That the person has no insurance coverage for mental health services, or has insurance with a high deductible that will deter the person from accessing necessary mental health services.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.64(234) Provider participation. A mental health professional with an active professional license issued by the Iowa department of public health who is qualified to provide individual psychotherapy (i.e., Current Procedural Terminology code 90806, "individual psychotherapy, insight-oriented behavior modification or support, provided face to face with the patient in an office or outpatient setting") according to the Iowa Plan vendor requirements shall be allowed to participate as a ticket to hope provider.

58.64(1) A mental health professional applying to participate in the program shall submit a copy of the professional license to the Iowa concern hotline.

58.64(2) The mental health professional shall agree to the terms of participation in the ticket to hope program by:

- a. Signing a professional services agreement with the department; and
- b. Returning the signed agreement to the Iowa concern hotline.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.65(234) Provider reimbursement. A provider approved to participate shall be reimbursed as follows:

58.65(1) The provider shall submit a completed demographic data form and the authorization form to the Iowa concern hotline within 30 days after each completed session with an approved applicant.

58.65(2) The provider shall be reimbursed at the lower of:

- a. A rate of \$93 per assessment or counseling session, or
- b. The prevailing Iowa Medicaid rate.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.66(234) Reconsideration. An applicant may request reconsideration of a denial of access to services. A mental health professional may request reconsideration of a denial to be a part of the professional provider panel.

58.66(1) To request reconsideration, the person shall submit a written request to the DHS Division of Mental Health and Disability Services, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

58.66(2) The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days from receipt of the request.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.67(234) Appeal. The person may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

58.67(1) Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

58.67(2) A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the department.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

441—58.68(234) Discontinuance of program. The program shall end on June 30, 2010, or when the funds are expended, whichever occurs first.

[ARC 7641B, IAB 3/25/09, effective 3/1/09; ARC 7830B, IAB 6/3/09, effective 7/8/09]

These rules are intended to implement Iowa Code section 234.6.

[Filed emergency 10/12/90 after Notice 8/22/90—published 10/31/90, effective 11/1/90]

[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]

[Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]

[Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]

[Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]

[Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]

[Filed 5/14/92, Notice 3/18/92—published 6/10/92, effective 8/1/92]

[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]

[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]

[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]

[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]

[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]

[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]

[Filed emergency 9/12/02 after Notice 7/24/02—published 10/2/02, effective 10/1/02]

[Filed emergency 3/5/07—published 3/28/07, effective 3/5/07]

[Filed emergency 6/13/07 after Notice 3/28/07—published 7/4/07, effective 7/1/07]

[Filed emergency 6/11/08—published 7/2/08, effective 7/1/08]

[Filed emergency 7/9/08—published 7/30/08, effective 7/9/08]

[Filed 10/14/08, Notice 7/2/08—published 11/5/08, effective 12/10/08]

[Filed 12/15/08, Notice 10/22/08—published 1/14/09, effective 3/1/09]

[Filed ARC 7577B (Notice ARC 6995B, IAB 7/30/08), IAB 2/25/09, effective 4/1/09]

[Filed Emergency ARC 7603B, IAB 3/11/09, effective 2/11/09]

[Filed Emergency ARC 7641B, IAB 3/25/09, effective 3/1/09]

[Filed ARC 7830B (Notice ARC 7642B, IAB 3/25/09), IAB 6/3/09, effective 7/8/09]

[Filed ARC 8007B (Notice ARC 7604B, IAB 3/11/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 8640B (Notice ARC 8460B, IAB 1/13/10), IAB 4/7/10, effective 5/12/10]

[Filed Emergency ARC 9130B, IAB 10/6/10, effective 9/15/10]

[Filed Emergency ARC 9128B, IAB 10/6/10, effective 10/1/10]

[Filed ARC 9313B (Notice ARC 9131B, IAB 10/6/10), IAB 12/29/10, effective 2/2/11]

[Filed ARC 9312B (Notice ARC 9129B, IAB 10/6/10), IAB 12/29/10, effective 3/1/11]

[Filed ARC 1353C (Notice ARC 1257C, IAB 12/25/13), IAB 3/5/14, effective 5/1/14]

TITLE VIII
MEDICAL ASSISTANCE
CHAPTER 74
IOWA HEALTH AND WELLNESS PLAN

PREAMBLE

This chapter defines and structures the Iowa Health and Wellness Plan, effective January 1, 2014, and administered by the department pursuant to 2013 Iowa Acts, Senate File 446, sections 166 to 173 and 185 to 187. Implementation of the Iowa Health and Wellness Plan is subject to approval by the Secretary of the United States Department of Health and Human Services of any waivers of the requirements of Title XIX of the Social Security Act to provide for federal funding of the plan. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver granted by the Secretary. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.1(249A,85GA,SF446) Definitions.

“Accountable care organization” means a risk-bearing, integrated health care organization characterized by a payment and care delivery model that ties provider reimbursement to quality metrics and reductions in the total cost of care for an attributed population of patients.

“Countable income” means “modified adjusted gross income” (MAGI) or “household income,” as applicable, determined pursuant to 42 U.S.C. § 1396a(e)(14).

“Department” means the Iowa department of human services.

“Enrollment period” means the 12-month period for which eligibility is initially established.

“Essential health benefits” means the essential health benefits defined by the Secretary of the United States Department of Health and Human Services pursuant to Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148.

“Exempt individuals” shall be defined pursuant to 42 CFR § 440.315.

“Federal poverty level” means the poverty income guidelines revised annually and published in the Federal Register by the U.S. Department of Health and Human Services.

“Health insurance marketplace” or *“exchange”* means an American health benefit exchange established pursuant to 42 U.S.C. § 18031.

“Iowa Health and Wellness Plan” means the medical assistance program set forth in this chapter.

“Iowa wellness plan” means the benefits and services provided to Iowa Health and Wellness Plan members with countable income that does not exceed 100 percent of the federal poverty level.

“Marketplace choice plan” means the benefits and services provided to Iowa Health and Wellness Plan members with countable income between 101 percent and 133 percent of the federal poverty level.

“Member” means an individual who is receiving assistance under the Iowa Health and Wellness Plan described in this chapter.

“Minimum essential coverage” means health insurance defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code.

“Modified adjusted gross income” means the financial-eligibility methodology prescribed in 42 U.S.C. § 1396a(e)(14).

“Qualified employer-sponsored coverage” shall be defined pursuant to 42 U.S.C. § 1396e-1(b).

“Qualified health plan” shall be defined pursuant to Section 1301 of the Patient Protection and Affordable Care Act, Public Law 111-152.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.2(249A,85GA,SF446) Eligibility factors. Except as more specifically provided in this chapter, Iowa Health and Wellness Plan eligibility shall be determined according to the requirements of 441—Chapter 75.

74.2(1) *Persons covered.* Subject to the additional requirements of this chapter and of 441—Chapter 75, medical assistance under the Iowa Health and Wellness Plan shall be available to persons 19 through 64 years of age who:

- a. Are not eligible for medical assistance in a mandatory group under 441—Chapter 75;
- b. Have countable income at or below 133 percent of the federal poverty level for their household size; and
- c. Are not entitled to or enrolled in Medicare benefits under Part A or Part B of Title XVIII of the Social Security Act; and
- d. Are not pregnant.

74.2(2) *Parents or caretakers of dependent children.* All dependent children under the age of 21 living with a parent or other caretaker relative must be enrolled in Medicaid, in the Children's Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent's or other caretaker relative's eligibility for Iowa Health and Wellness Plan benefits.

74.2(3) *Citizenship.* To be eligible for Iowa Health and Wellness Plan benefits, a person must meet the citizenship requirements in 441—Chapter 75.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.3(249A,85GA,SF446) Application. Medicaid application policies and procedures described in 441—Chapter 76 shall apply to applications for the Iowa Health and Wellness Plan.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.4(249A,85GA,SF446) Financial eligibility.

74.4(1) *Countable income.* Individuals are financially eligible for the Iowa Health and Wellness Plan if their countable income is no more than 133 percent of the federal poverty level, as of the date of a decision on initial or ongoing eligibility.

74.4(2) *Household size.* For financial eligibility purposes, household size shall be determined according to the modified adjusted gross income (MAGI) methodology.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.5(249A,85GA,SF446) Enrollment period.

74.5(1) Iowa Health and Wellness Plan eligibility shall be effective on the first day of the month following the month of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of rule 441—74.8(249A,85GA,SF446).

74.5(2) Care provided before enrollment. No payment shall be made for medical care received before the effective date of enrollment.

74.5(3) Reinstatement. Enrollment for the Iowa Health and Wellness Plan may be reinstated without a new application in accordance with 441—subrule 76.12(2).

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.6(249A,85GA,SF446) Reporting changes.

74.6(1) *Reporting requirements.* As a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member turns 65.
- d. The member becomes entitled or enrolled in Medicare Part A or Part B or both.
- e. The member's dependent child loses minimum essential coverage.
- f. The member's countable income increases in a manner that must be reported according to the requirements of rule 441—76.15(249A).
- g. The member is confirmed pregnant.

74.6(2) *Untimely report.* When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with rule 441—75.28(249A).

74.6(3) *Effective date of change.* After enrollment, changes reported during the month that affect the member's eligibility shall be effective the first day of the next calendar month unless:

- a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1); or
 - b. The enrollment period has expired and the member is not eligible for a new enrollment period.
- [ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.7(249A,85GA,SF446) *Reenrollment.* A new eligibility determination is required for consecutive 12-month enrollment periods. The reenrollment process will follow the requirements in 441—subrule 76.14(2).

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.8(249A,85GA,SF446) *Terminating enrollment.* Iowa Health and Wellness Plan enrollment shall end when any of the following occur:

1. The enrollment period ends and coverage for the next enrollment period has not been renewed.
2. The member becomes eligible for medical assistance in a mandatory coverage group under 441—Chapter 75.
3. The member is found to have been ineligible for any reason.
4. The member dies.
5. The member turns 65.
6. The member abandons Iowa residency.
7. The member becomes entitled or enrolled in Medicare Part A or Part B or both.
8. The member's dependent child loses minimum essential coverage.
9. The member's countable income exceeds 133 percent of the federal poverty level.
10. The member becomes pregnant.
11. The Iowa Health and Wellness Plan is discontinued according to the requirements in rule 441—74.14(249A,85GA,SF446).

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.9(249A,85GA,SF446) *Recovery.* The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with rule 441—75.28(249A).

74.9(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with rule 441—75.28(249A).

74.9(2) Funds received from third parties, including Medicare, by a provider other than a state mental health institute shall be reported to the Iowa Medicaid enterprise, and an adjustment shall be made to a previously submitted claim.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.10(249A,85GA,SF446) *Right to appeal.* Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed pursuant to 441—Chapter 7. Coverage decisions and actions by participating marketplace choice plans shall be appealed through the plans' grievance and appeal processes. Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A,85GA,SF446).

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.11(249A,85GA,SF446) *Financial participation.*

74.11(1) Copayment. Payment for nonemergency use of a hospital emergency department shall be subject to a \$10 copayment by the member, which shall be subtracted from the Iowa Health and Wellness Plan payment otherwise due to the provider. This copayment will be waived during the first year of the Iowa Health and Wellness Plan.

74.11(2) Reserved.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.12(249A,85GA,SF446) Benefits and service delivery. Covered benefits and the service delivery method shall be determined by the member's countable income and health status.

74.12(1) Iowa wellness plan services. Iowa Health and Wellness Plan members with countable income that does not exceed 100 percent of the federal poverty level shall be enrolled in the Iowa wellness plan unless the member is determined by the department to be an exempt individual. The department shall provide the member with a medical assistance eligibility card identifying the member as eligible for Iowa wellness plan services.

a. Covered Iowa wellness plan services are essential health benefits, all other benefits required pursuant to 42 U.S.C. § 1396u-7(b)(1)(B), prescription drugs and dental services consistent with 441—Chapter 78, and habilitation services consistent with rule 441—78.27(249A).

b. The Iowa Health and Wellness Plan provider network shall include all providers enrolled in the medical assistance program, including all participating accountable care organizations.

c. Members enrolled in the Iowa wellness plan shall be subject to enrollment in managed care, other than PACE programs, pursuant to 441—Chapter 88. In addition to reimbursement for managed care pursuant to 441—Chapter 88, the department may provide care coordination fees, performance incentive payments, or shared savings arrangements for medical homes and accountable care organizations serving members enrolled in the Iowa Health and Wellness Plan.

d. When the member does not choose a primary medical provider, the department shall assign the member to a primary medical provider in accordance with the Medicaid managed health care mandatory enrollment provisions specified in 441—subrule 88.3(7) for mandatory enrollment counties and in accordance with quality data available to the department.

74.12(2) Marketplace choice plan services. Iowa Health and Wellness Plan members with countable income between 101 percent and 133 percent of the federal poverty level shall be enrolled in a marketplace choice plan unless the member is determined by the department to be an exempt individual. Marketplace choice coverage shall be provided through designated qualified health plans available on the health insurance marketplace. Covered services not provided by the marketplace choice plan will be provided by the medical assistance program. Individuals who have been determined eligible for the marketplace choice plan, but who have not yet been enrolled in a marketplace choice plan, shall receive fee-for-service coverage under the Iowa wellness plan until they choose or are assigned to a marketplace choice plan.

a. Upon enrollment, a member shall choose a qualified health plan from those designated by the department to provide coverage to Iowa Health and Wellness Plan members.

b. When the member does not select a qualified health plan pursuant to notice of the need to do so, the department will select a plan, enroll the member, and notify the member of the assigned plan.

c. The department shall pay premiums to designated qualified health plans participating on the health insurance marketplace to buy coverage for eligible Iowa Health and Wellness Plan members. The department shall begin payment of the member's premiums for the first month of enrollment through the Iowa Health and Wellness Plan. The qualified health plan shall provide the member with an insurance card identifying the member as an enrollee of the plan. The department shall provide the member with a medical assistance eligibility card identifying the member as eligible for the marketplace choice plan.

d. Covered services are all benefits, including essential health benefits, provided by the designated qualified health plan on the health insurance marketplace, including prescription drugs. Dental services shall be provided through a contract with a commercial dental plan with covered services consistent with 441—Chapter 78. Services not covered by the qualified health plan, but covered pursuant to the marketplace choice 1115 waiver or the marketplace choice state plan will be covered by the Medicaid program.

74.12(3) Exempt individuals. An Iowa Health and Wellness Plan member who has been determined by the department to be an exempt individual shall be given the choice of the benefits and service delivery

method provided by the Iowa wellness plan or receiving benefits and services pursuant to 441—Chapter 78.

74.12(4) *Qualified employer-sponsored coverage.* An individual who has access to cost-effective employer-sponsored coverage shall be subject to enrollment in the health insurance premium payment program pursuant to 441—Chapter 75.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.13(249A,85GA,SF446) Claims and reimbursement methodologies.

74.13(1) *Claims for services not provided by a qualified health plan.* Claims for services provided under the Iowa wellness plan or for covered marketplace choice services not provided by the member's qualified health plan shall be submitted to the Iowa Medicaid enterprise as required by 441—Chapter 80.

74.13(2) *Payment for services not provided by a qualified health plan.* Payment for services provided under the Iowa wellness plan or for covered marketplace choice services not provided by the member's qualified health plan shall be provided in accordance with 441—Chapter 79 or as provided in a contract between the department and the provider.

74.13(3) *Payment for services provided by the marketplace choice plan.* Payment for services provided under the marketplace choice plan shall be made in accordance with the rates filed with the Iowa insurance division.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.14(249A,85GA,SF446) Discontinuance of program.

74.14(1) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state, or if federal law or regulation affecting eligibility or benefits for the Iowa Health and Wellness Plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

74.14(2) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below 90 percent but not below 85 percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.

[ARC 1135C, IAB 10/30/13, effective 10/2/13]

441—74.15(249A,85GA,ch138) Enrollment for IowaCare members.

74.15(1) Subject to a waiver of the eligibility requirements of 42 U.S.C. § 1396a(e)(14)(A) by the federal Centers for Medicare and Medicaid Services, and notwithstanding any other provision of this chapter, an individual who is enrolled in the IowaCare program under 441—Chapter 92 on October 1, 2013, shall be enrolled without an application in the Iowa Health and Wellness Plan effective January 1, 2014, if department records show:

a. That the income of all household members considered in determining the individual's eligibility for IowaCare (other than child support income) does not exceed 138 percent of the federal poverty level for a household of that size, based on the following sources of income information, in the following order of priority:

(1) Income used to determine eligibility for food assistance for the individual and other IowaCare household members, pursuant to 441—Chapter 92;

(2) Income used to determine eligibility for medical assistance for other IowaCare household members, pursuant to 441—Chapter 75;

(3) Iowa workforce development unemployment insurance benefit data available to the department pursuant to 441—paragraph 9.10(4) "c";

(4) Iowa workforce development wage data available to the department pursuant to 441—paragraph 9.10(4) "c";

(5) Income and eligibility verification system data available to the department pursuant to 441—paragraph 9.10(4)“c”; and

b. That the individual meets all eligibility requirements of the Iowa Health and Wellness Plan, pursuant to this chapter, other than income.

74.15(2) Individuals enrolled pursuant to this rule will thereafter be subject to all the provisions of this chapter, with no further application of this rule.

[ARC 1214C, IAB 12/11/13, effective 11/13/13; ARC 1354C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement 2013 Iowa Acts, Senate File 446, sections 166 to 173 and 185 to 187, and Iowa Code chapter 249A.

[Filed Emergency After Notice ARC 1135C (Notice ARC 0972C, IAB 8/21/13), IAB 10/30/13, effective 10/2/13]

[Filed Emergency ARC 1214C, IAB 12/11/13, effective 11/13/13]

[Filed ARC 1354C (Notice ARC 1213C, IAB 12/11/13), IAB 3/5/14, effective 4/9/14]

CHAPTER 75
CONDITIONS OF ELIGIBILITY

[Ch 75, 1973 IDR, renumbered as Ch 90]
[Prior to 7/1/83, Social Services[770] Ch 75]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

This chapter establishes the conditions of eligibility for the medical assistance program administered by the department of human services pursuant to Iowa Code chapter 249A and addresses related matters. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver of Title XIX requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.
[ARC 1134C, IAB 10/30/13, effective 10/2/13]

DIVISION I
GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS

441—75.1(249A) Persons covered.

75.1(1) *Persons receiving refugee cash assistance.* Medical assistance shall be available to all recipients of refugee cash assistance. Recipient means a person for whom a refugee cash assistance (RCA) payment is received and includes persons deemed to be receiving RCA. Persons deemed to be receiving RCA are:

- a. Persons denied RCA because the amount of payment would be less than \$10.
- b. Rescinded IAB 7/30/08, effective 10/1/08.
- c. Persons who are eligible in every respect for refugee cash assistance (RCA) as provided in 441—Chapter 60, but who do not receive RCA because they did not make application for the assistance.

75.1(2) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(3) *Persons who are ineligible for Supplemental Security Income (SSI) because of requirements that do not apply under Title XIX of the Social Security Act.* Medicaid shall be available to persons who would be eligible for SSI except for an eligibility requirement used in that program which is specifically prohibited under Title XIX.

75.1(4) *Beneficiaries of Title XVI of the Social Security Act (supplemental security income for the aged, blind and disabled) and mandatory state supplementation.* Medical assistance will be available to all beneficiaries of the Title XVI program and those receiving mandatory state supplementation.

75.1(5) *Persons receiving care in a medical institution who were eligible for Medicaid as of December 31, 1973.* Medicaid shall be available to all persons receiving care in a medical institution who were Medicaid members as of December 31, 1973. Eligibility of these persons will continue as long as they continue to meet the eligibility requirements for the applicable assistance programs (old-age assistance, aid to the blind or aid to the disabled) in effect on December 31, 1973.

75.1(6) *Persons who would be eligible for supplemental security income (SSI), state supplementary assistance (SSA), or the family medical assistance program (FMAP) except for their institutional status.* Medicaid shall be available to persons receiving care in a medical institution who would be eligible for SSI, SSA, or FMAP if they were not institutionalized.

75.1(7) *Persons receiving care in a medical facility who would be eligible under a special income standard.*

- a. Subject to paragraphs “b” and “c” below, Medicaid shall be available to persons who:
 - (1) Meet level of care requirements as set forth in rules 441—78.3(249A), 441—81.3(249A), and 441—82.7(249A).
 - (2) Receive care in a hospital, nursing facility, psychiatric medical institution, intermediate care facility for the mentally retarded, or Medicare-certified skilled nursing facility.

(3) Have gross countable monthly income that does not exceed 300 percent of the federal supplemental security income benefits for one.

(4) Either meet all supplemental security income (SSI) eligibility requirements except for income or are under age 21. FMAP policies regarding income and age do not apply when determining eligibility for persons under the age of 21.

b. For all persons in this coverage group, income shall be considered as provided for SSI-related coverage groups under subrule 75.13(2). In establishing eligibility for persons aged 21 or older for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2).

c. Eligibility for persons in this group shall not exist until the person has been institutionalized for a period of 30 consecutive days and shall be effective no earlier than the first day of the month in which the 30-day period begins. A “period of 30 days” is defined as being from 12 a.m. of the day of admission to the medical institution, and ending no earlier than 12 midnight of the thirtieth day following the beginning of the period.

(1) A person who enters a medical institution and who dies prior to completion of the 30-day period shall be considered to meet the 30-day period provision.

(2) Only one 30-day period is required to establish eligibility during a continuous stay in a medical institution. Discharge during a subsequent month, creating a partial month of care, does not affect eligibility for that partial month regardless of whether the eligibility determination was completed prior to discharge.

(3) A temporary absence of not more than 14 full consecutive days during which the person remains under the jurisdiction of the institution does not interrupt the 30-day period. In order to remain “under the jurisdiction of the institution” a person must first have been physically admitted to the institution.

75.1(8) *Certain persons essential to the welfare of Title XVI beneficiaries.* Medical assistance will be available to the person living with and essential to the welfare of a Title XIX beneficiary provided the essential person was eligible for medical assistance as of December 31, 1973. The person will continue to be eligible for medical assistance as long as the person continues to meet the definition of “essential person” in effect in the public assistance program on December 31, 1973.

75.1(9) *Individuals receiving state supplemental assistance.* Medical assistance shall be available to all recipients of state supplemental assistance as authorized by Iowa Code chapter 249.

75.1(10) *Individuals under age 21 living in a licensed foster care facility or in a private home pursuant to a subsidized adoption arrangement for whom the department has financial responsibility in whole or in part.* When Iowa is responsible for foster care payment for a child pursuant to Iowa Code section 234.35 and rule 441—156.20(234) or has negotiated an adoption assistance agreement for a child pursuant to rule 441—201.5(600), medical assistance shall be available to the child if:

a. The child lives in Iowa and is not otherwise eligible under a category for which federal financial participation is available; or

b. The child lives in another state and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the federal Social Security Act, notwithstanding the residency requirements of 441—75.10(249A) and 441—75.53(249A).

75.1(11) *Individuals living in a court-approved subsidized guardianship home for whom the department has financial responsibility in whole or in part.* When Iowa is responsible for a subsidized guardianship payment for a child pursuant to 441—Chapter 204, medical assistance will be available to the child under this subrule if the child is living in a court-approved subsidized guardianship home and either:

a. The child lives in Iowa and is not eligible for medical assistance under a category for which federal financial participation is available due to reasons other than:

(1) Failure to provide information, or

(2) Failure to comply with other procedural requirements; or

b. Notwithstanding the residency requirements of 441—75.10(249A) and 441—75.53(249A), the child lives in another state and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the federal Social Security Act due to reasons other than:

- (1) Failure to provide information, or
- (2) Failure to comply with other procedural requirements.

75.1(12) *Persons ineligible due to October 1, 1972, social security increase.* Medical assistance will be available to individuals and families whose assistance grants were canceled as a result of the increase in social security benefits October 1, 1972, as long as these individuals and families would be eligible for an assistance grant if the increase were not considered.

75.1(13) *Persons who would be eligible for supplemental security income or state supplementary assistance but for social security cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions:

- a. They were entitled to and received concurrently in any month after April 1977 supplemental security income and social security or state supplementary assistance and social security, and
- b. They subsequently lost eligibility for supplemental security income or state supplementary assistance, and
- c. They would be eligible for supplemental security income or state supplementary assistance if all of the social security cost-of-living increases which they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and supplemental security income (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

75.1(14) *Family medical assistance program (FMAP).* Medicaid shall be available to children who meet the provisions of rule 441—75.54(249A) and to the children's specified relatives who meet the provisions of subrule 75.54(2) and rule 441—75.55(249A) if the following criteria are met.

- a. In establishing eligibility of specified relatives for this coverage group, resources are considered in accordance with the provisions of rule 441—75.56(249A) and shall not exceed \$2,000 for applicant households or \$5,000 for member households. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded.
- b. Income is considered in accordance with rule 441—75.57(249A) and does not exceed needs standards established in rule 441—75.58(249A).
- c. Rescinded IAB 11/1/00, effective 1/1/01.

75.1(15) *Child medical assistance program (CMAP).* Medicaid shall be available to persons under the age of 21 if the following criteria are met:

a. Financial eligibility shall be determined for the family size of which the child is a member using the income standards in effect for the family medical assistance program (FMAP) unless otherwise specified. Income shall be considered as provided in rule 441—75.57(249A). Additionally, the earned income disregards as provided in paragraphs 75.57(2) "a," "b," "c," and "d" shall be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with paragraph 75.58(1) "a" but who are not eligible for Medicaid. Resources of all persons in the eligible group, regardless of age, shall be disregarded. Unless a family member is voluntarily excluded in accordance with the provisions of rule 441—75.59(249A), family size shall be determined as follows:

(1) If the person under the age of 21 is pregnant and the pregnancy has been verified in accordance with rule 441—75.17(249A), the unborn child (or children if more than one) is considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the pregnant individual.

(3) Unless otherwise specified, when the person under the age of 21 is living with a parent(s), the family size shall consist of all family members as defined by the family medical assistance program in accordance with paragraph 75.57(8) "c" and subrule 75.58(1).

Application for Medicaid shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s') home as defined in subrule 75.53(4). If the person under the age of 21 is married or has been married, the needs, income and resources of the person's parent(s) and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) Siblings under the age of 21 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this rule unless one sibling is married or has been married, in which case, the married sibling shall be considered separately unless the marriage was annulled.

(6) When a person is residing in a household in which some members are receiving FMAP under the provisions of subrule 75.1(14) or MAC under the provisions of subrule 75.1(28), and when the person is not included in the FMAP or MAC eligible group, the family size shall consist of the person and all other family members as defined above except those in the FMAP or MAC eligible group.

b. Rescinded IAB 9/6/89, effective 11/1/89.

c. Rescinded IAB 11/1/89, effective 1/1/90.

d. A person is eligible for the entire month in which the person's twenty-first birthday occurs unless the birthday falls on the first day of the month.

e. Living with a specified relative as provided in subrule 75.54(2) shall not be considered when determining eligibility for persons under this coverage group.

75.1(16) *Children receiving subsidized adoption payments from states providing reciprocal medical assistance benefits.* Medical assistance shall be available to children under the age of 21 for whom an adoption assistance agreement with another state is in effect if all of the following conditions are met:

a. The child is residing in Iowa in a private home with the child's adoptive parent or parents.

b. Benefits funded under Title IV-E of the Social Security Act are not being paid for the child by any state.

c. Another state currently has an adoption assistance agreement in effect for the child.

d. The state with the adoption assistance agreement:

(1) Is a member of the interstate compact on adoption and medical assistance (ICAMA); and

(2) Provides medical assistance benefits pursuant to a program funded under Title XIX of the Social Security Act, under the optional group at Section 1902(a)(10)(A)(ii)(VIII) of the Act, to children residing in that state (at least until age 18) for whom there is a state adoption assistance agreement in effect with the state of Iowa other than under Title IV-E of the Social Security Act.

75.1(17) *Persons who meet the income and resource requirements of the cash assistance programs.* Medicaid shall be available to the following persons who meet the income and resource guidelines of supplemental security income or refugee cash assistance, but who are not receiving cash assistance:

a. Aged and blind persons, as defined at subrule 75.13(2).

b. Disabled persons, as defined at rule 441—75.20(249A).

In establishing eligibility for children for this coverage group based on eligibility for SSI, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2) or as under refugee cash assistance.

75.1(18) *Persons eligible for waiver services.* Medicaid shall be available to recipients of waiver services as defined in 441—Chapter 83.

75.1(19) *Persons and families terminated from aid to dependent children (ADC) prior to April 1, 1990, due to discontinuance of the \$30 or the \$30 and one-third earned income disregards.* Rescinded IAB 6/12/91, effective 8/1/91.

75.1(20) *Newborn children.* Medicaid shall be available without an application to newborn children of women who are determined eligible for Medicaid for the month of the child's birth or for three-day emergency services for labor and delivery for the child's birth. Effective April 1, 2009, eligibility begins

with the month of the birth and continues through the month of the first birthday as long as the child remains an Iowa resident.

a. The department shall accept any written or verbal statement as verification of the newborn's birth date unless the birth date is questionable.

b. In order for Medicaid to continue after the month of the first birthday, a redetermination of eligibility shall be completed.

75.1(21) *Persons and families ineligible for the family medical assistance program (FMAP) in whole or in part because of child or spousal support.* Medicaid shall be available for an additional four months to persons and families who become ineligible for FMAP because of income from child support, alimony, or contributions from a spouse if the person or family member received FMAP in at least three of the six months immediately preceding the month of cancellation.

a. The four months of extended Medicaid coverage begin the day following termination of FMAP eligibility.

b. When ineligibility is determined to occur retroactively, the extended Medicaid coverage begins with the first month in which FMAP eligibility was erroneously granted.

c. Rescinded IAB 10/11/95, effective 10/1/95.

75.1(22) *Refugee spenddown participants.* Rescinded IAB 10/11/95, effective 10/1/95.

75.1(23) *Persons who would be eligible for supplemental security income or state supplementary assistance but for increases in social security benefits because of elimination of the actuarial reduction formula and cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions. They:

a. Were eligible for a social security benefit in December of 1983.

b. Were eligible for and received a widow's or widower's disability benefit and supplemental security income or state supplementary assistance for January of 1984.

c. Became ineligible for supplemental security income or state supplementary assistance because of an increase in their widow's or widower's benefit which resulted from the elimination of the reduction factor in the first month in which the increase was paid and in which a retroactive payment of that increase for prior months was not made.

d. Have been continuously eligible for a widow's or widower's benefit from the first month the increase was received.

e. Would be eligible for supplemental security income or state supplementary assistance benefits if the amount of the increase from elimination of the reduction factor and any subsequent cost-of-living adjustments were disregarded.

f. Submit an application prior to July 1, 1988, on Form 470-0442, Application for Medical Assistance or State Supplementary Assistance.

75.1(24) *Postpartum eligibility for pregnant women.* Medicaid shall continue to be available, without an application, for 60 days beginning with the last day of pregnancy and throughout the remaining days of the month in which the 60-day period ends, to a woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for Medicaid for the month in which the pregnancy ended.

a. Postpartum Medicaid shall only be available to a woman who is not eligible for another coverage group after the pregnancy ends.

b. The woman shall not be required to meet any income or resource criteria during the postpartum period.

c. When the sixtieth day is not on the last day of the month the woman shall be eligible for Medicaid for the entire month.

75.1(25) *Persons who would be eligible for supplemental security income or state supplementary assistance except that they receive child's social security benefits based on disability.* Medical assistance shall be available to persons who receive supplemental security income (SSI) or state supplementary assistance (SSA) after their eighteenth birthday because of a disability or blindness which began before age 22 and who would continue to receive SSI or SSA except that they become entitled to or receive an increase in social security benefits from a parent's account.

75.1(26) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(27) *Widows and widowers who are no longer eligible for supplemental security income or state supplementary assistance because of the receipt of social security benefits.* Medicaid shall be available to widows and widowers who meet the following conditions:

a. They have applied for and received or were considered recipients of supplemental security income or state supplementary assistance.

b. They apply for and receive Title II widow's or widower's insurance benefits or any other Title II old age or survivor's benefits, if eligible for widow's or widower's benefits.

c. Rescinded IAB 5/1/91, effective 4/11/91.

d. They were not entitled to Part A Medicare hospital insurance benefits at the time of application and receipt of Title II old age or survivor's benefits. They are not currently entitled to Part A Medicare hospital insurance benefits.

e. They are no longer eligible for supplemental security income or state supplementary assistance solely because of the receipt of their social security benefits.

75.1(28) *Pregnant women, infants and children (Mothers and Children (MAC)).* Medicaid shall be available to all pregnant women, infants (under one year of age) and children who have not attained the age of 19 if the following criteria are met:

a. Income.

(1) Family income shall not exceed 300 percent of the federal poverty level for pregnant women and for infants (under one year of age). Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained 19 years of age. Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. "Family income" is the income remaining after disregards and deductions have been applied as provided in rule 441—75.57(249A).

(2) Moneys received as a lump sum, except as specified in subrules 75.56(4) and 75.56(7) and paragraphs 75.57(8) "b" and "c," shall be treated in accordance with paragraphs 75.57(9) "b" and "c."

(3) Unless otherwise specified, when the person under the age of 19 is living with a parent or parents, the family size shall consist of all family members as defined by the family medical assistance program.

Application for Medicaid shall be made by the parents when the person is residing with them. A person shall be considered to be living with the parents when the person is temporarily absent from the parent's home as defined in subrule 75.53(4). If the person under the age of 19 is married or has been married, the needs, income and resources of the person's parents and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person under the age of 19 is living with a spouse, the family size shall consist of that person, the spouse, and any of their children.

(5) Siblings under the age of 19 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this subrule unless one sibling is married or has been married, in which case the married sibling shall be considered separately unless the marriage was annulled.

b. For pregnant women, resources shall not exceed \$10,000 per household. In establishing eligibility for infants and children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for pregnant women for this coverage group, resources shall be considered in accordance with department of public health 641—subrule 75.4(2).

c. Rescinded IAB 9/6/89, effective 11/1/89.

d. Eligibility for pregnant women under this rule shall begin no earlier than the first day of the month in which conception occurred and in accordance with 441—76.5(249A).

e. The unborn child (children if more than one fetus exists) shall be considered when determining the number of persons in the household.

f. An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month of the nineteenth birthday unless the birthday falls on the first day of the month.

g. Rescinded IAB 11/1/89, effective 1/1/90.

h. When determining eligibility under this coverage group, living with a specified relative as specified at subrule 75.54(2) and the student provisions specified in subrule 75.54(1) do not apply.

i. A woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for assistance under this coverage group for the month in which her pregnancy ended shall be entitled to receive Medicaid through the postpartum period in accordance with subrule 75.1(24).

j. If an infant loses eligibility under this coverage group at the time of the first birthday due to an inability to meet the income limit for children or if a child loses eligibility at the time of the nineteenth birthday, but the infant or child is receiving inpatient services in a medical institution, Medicaid shall continue under this coverage group for the duration of the time continuous inpatient services are provided.

75.1(29) *Persons who are entitled to hospital insurance benefits under Part A of Medicare (Qualified Medicare Beneficiary program).* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part A and B premiums, coinsurance and deductibles, providing the following conditions are met:

a. The person's monthly income does not exceed 100 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(1) The amount of income shall be determined as under the federal Supplemental Security Income (SSI) program.

(2) Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.

b. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits. The amount of resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4).

c. The effective date of eligibility is the first of the month after the month of decision.

75.1(30) *Presumptive eligibility for pregnant women.* A pregnant woman who is determined by a qualified provider to be presumptively eligible for Medicaid, based only on her statements regarding family income, shall be eligible for ambulatory prenatal care. Eligibility shall continue until the last day of the month following the month of the presumptive eligibility determination unless the pregnant woman is determined to be ineligible for Medicaid during this period based on a Medicaid application filed either before the presumptive eligibility determination or during this period. In this case, presumptive eligibility shall end on the date Medicaid ineligibility is determined. A pregnant woman who files a Medicaid application but withdraws that application before eligibility is determined has not been determined ineligible for Medicaid. The pregnant woman shall complete Form 470-2927 or 470-2927(S), Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. The qualified provider shall complete Form 470-2629, Presumptive Medicaid Income Calculation, in order to establish that the pregnant woman's family income is within the prescribed limits of the Medicaid program.

If the pregnant woman files a Medicaid application in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, Medicaid shall continue until a decision of ineligibility is made on the application. Payment of claims for ambulatory prenatal care services provided to a pregnant woman under this subrule is not dependent upon a finding of Medicaid eligibility for the pregnant woman.

a. A qualified provider is defined as a provider who is eligible for payment under the Medicaid program and who meets all of the following criteria:

(1) Provides one or more of the following services:

1. Outpatient hospital services.
2. Rural health clinic services (if contained in the state plan).
3. Clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician.

(2) Has been specifically designated by the department in writing as a qualified provider for the purposes of determining presumptive eligibility on the basis of the department's determination that the provider is capable of making a presumptive eligibility determination based on family income.

(3) Meets one of the following:

1. Receives funds under the Migrant Health Centers or Community Health Centers (subsection 329 or subsection 330 of the Public Health Service Act) or the Maternal and Child Health Services Block Grant Programs (Title V of the Social Security Act) or the Health Services for Urban Indians Program (Title V of the Indian Health Care Improvement Act).

2. Participates in the program established under the Special Supplemental Food Program for Women, Infants, and Children (subsection 17 of the Child Nutrition Act of 1966) or the Commodity Supplemental Food Program (subsection 4(a) of the Agriculture and Consumer Protection Act of 1973).

3. Participates in a state perinatal program.

4. Is an Indian health service office or a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act.

b. The provider shall complete Form 470-2579, Application for Authorization to Make Presumptive Medicaid Eligibility Determinations, and submit it to the department for approval in order to become certified as a provider qualified to make presumptive eligibility determinations. Once the provider has been approved as a provider qualified to make presumptive Medicaid eligibility determinations, Form 470-2582, Memorandum of Understanding Between the Iowa Department of Human Services and a Qualified Provider, shall be signed by the provider and the department.

c. Once the qualified provider has made a presumptive eligibility determination for a pregnant woman, the provider shall:

(1) Contact the department to obtain a state identification number for the pregnant woman who has been determined presumptively eligible.

(2) Notify the department in writing of the determination within five working days after the date the presumptive determination is made. A copy of the Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580 or 470-2580(S), shall be used for this purpose.

(3) Inform the pregnant woman in writing, at the time the determination is made, that if she chose not to apply for Medicaid on the Health Services Application, Form 470-2927 or 470-2927(S), she has until the last day of the month following the month of the preliminary determination to file an application with the department. A Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, shall be issued by the qualified provider for this purpose.

(4) Forward copies of the Health Services Application, Form 470-2927 or 470-2927(S), to the appropriate offices for eligibility determinations if the pregnant woman indicated on the application that she was applying for any of the other programs listed on the application. These copies shall be forwarded within two working days from the date of the presumptive determination.

d. In the event that a pregnant woman needing prenatal care does not appear to be presumptively eligible, the qualified provider shall inform the pregnant woman that she may file an application at the local department office if she wishes to have a formal determination made.

e. Presumptive eligibility shall end under any of the following conditions:

(1) The woman fails to file an application for Medicaid in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination.

(2) The woman files a Medicaid application by the last day of the month following the month of the presumptive eligibility determination and has been found ineligible for Medicaid.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

f. The adequate and timely notice requirements and appeal rights associated with an application that is filed pursuant to rule 441—76.1(249A) shall apply to an eligibility determination made on the Medicaid application. However, notice requirements and appeal rights of the Medicaid program shall not apply to a woman who is:

(1) Issued a presumptive eligibility decision by a qualified provider.

(2) Determined to be presumptively eligible by a qualified provider and whose presumptive eligibility ends because the woman fails to file an application by the last day of the month following the month of the initial presumptive eligibility determination.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

g. A woman shall not be determined to be presumptively eligible for Medicaid more than once per pregnancy.

75.1(31) *Persons and families canceled from the family medical assistance program (FMAP) due to the increased earnings of the specified relative in the eligible group.* Medicaid shall be available for a period of up to 12 additional months to families who are canceled from FMAP as provided in subrule 75.1(14) because the specified relative of a dependent child receives increased income from employment.

For the purposes of this subrule, “family” shall mean individuals living in the household whose needs and income were included in determining the FMAP eligibility of the household members at the time that the FMAP benefits were terminated. “Family” also includes those individuals whose needs and income would be taken into account in determining the FMAP eligibility of household members if the household were applying in the current month.

a. Increased income from employment includes:

(1) Beginning employment.

(2) Increased rate of pay.

(3) Increased hours of employment.

b. In order to receive transitional Medicaid coverage under these provisions, an FMAP family must have received FMAP during at least three of the six months immediately preceding the month in which ineligibility occurred.

c. The 12 months’ Medicaid transitional coverage begins the day following termination of FMAP eligibility.

d. When ineligibility is determined to occur retroactively, the transitional Medicaid coverage begins with the first month in which FMAP eligibility was erroneously granted, unless the provisions of paragraph “*f*” below apply.

e. Rescinded IAB 8/12/98, effective 10/1/98.

f. Transitional Medicaid shall not be allowed under these provisions when it has been determined that the member received FMAP in any of the six months immediately preceding the month of cancellation as the result of fraud. Fraud shall be defined in accordance with Iowa Code Supplement section 239B.14.

g. During the transitional Medicaid period, assistance shall be terminated at the end of the first month in which the eligible group ceases to include a child, as defined by the family medical assistance program.

h. If the family receives transitional Medicaid coverage during the entire initial six-month period and the department has received, by the twenty-first day of the fourth month, a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), Medicaid shall continue for an additional six months, subject to paragraphs “*g*” and “*i*” of this subrule.

(1) If the department does not receive a completed form by the twenty-first day of the fourth month, assistance shall be canceled.

(2) A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1)“*f*” and 75.57(2)“*l*.”

i. Medicaid shall end at the close of the first or fourth month of the additional six-month period if any of the following conditions exists:

(1) The department does not receive a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), by the twenty-first day of the first month or the fourth month of the additional

six-month period as required in paragraph 75.1(31)“h,” unless the family establishes good cause for failure to report on a timely basis. Good cause shall be established when the family demonstrates that one or more of the following conditions exist:

1. There was a serious illness or death of someone in the family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The family offers a good cause beyond the family’s control.
4. There was a failure to receive the department’s notification for a reason not attributable to the family. Lack of a forwarding address is attributable to the family.

(2) The specified relative had no earnings in one or more of the previous three months, unless the lack of earnings was due to an involuntary loss of employment, illness, or there were instances when problems could negatively impact the client’s achievement of self-sufficiency as described at 441—subrule 93.133(4).

(3) It is determined that the family’s average gross earned income, minus child care expenses for the children in the eligible group necessary for the employment of the specified relative, during the immediately preceding three-month period exceeds 185 percent of the federal poverty level as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

j. These provisions apply to specified relatives defined at paragraph 75.55(1)“a,” including:

(1) Any parent who is in the home. This includes parents who are included in the eligible group as well as those who are not.

(2) A stepparent who is included in the eligible group and who has assumed the role of the caretaker relative due to the absence or incapacity of the parent.

(3) A needy specified relative who is included in the eligible group.

k. The timely notice requirements as provided in 441—subrule 76.4(1) shall not apply when it is determined that the family failed to meet the eligibility criteria specified in paragraph “g” or “i” above. Transitional Medicaid shall be terminated beginning with the first month following the month in which the family no longer met the eligibility criteria. An adequate notice shall be provided to the family when any adverse action is taken.

75.1(32) *Persons and families terminated from refugee cash assistance (RCA) because of income earned from employment.* Refugee medical assistance (RMA) shall be available as long as the eight-month limit for the refugee program is not exceeded to persons who are receiving RMA and who are canceled from the RCA program solely because a member of the eligible group receives income from employment.

a. An RCA recipient shall not be required to meet any minimum program participation time frames in order to receive RMA coverage under these provisions.

b. A person who returns to the home after the family became ineligible for RCA may be included in the eligible group for RMA coverage if the person was included on the assistance grant the month the family became ineligible for RCA.

75.1(33) *Qualified disabled and working persons.* Medicaid shall be available to cover the cost of the premium for Part A of Medicare (hospital insurance benefits) for qualified disabled and working persons.

a. Qualified disabled and working persons are persons who meet the following requirements:

(1) The person’s monthly income does not exceed 200 percent of the federal poverty level applicable to the family size involved.

(2) The person’s resources do not exceed twice the maximum amount allowed under the supplemental security income (SSI) program.

(3) The person is not eligible for any other Medicaid benefits.

(4) The person is entitled to enroll in Medicare Part A of Title XVIII under Section 1818A of the Social Security Act (as added by Section 6012 of OBRA 1989).

b. The amount of the person’s income and resources shall be determined as under the SSI program.

75.1(34) Specified low-income Medicare beneficiaries. Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part B premium, provided the following conditions are met:

a. The person's monthly income exceeds 100 percent of the federal poverty level but is less than 120 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

b. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits.

c. The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.

d. The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

75.1(35) Medically needy persons.

a. Coverage groups. Subject to other requirements of this chapter, Medicaid shall be available to the following persons:

(1) Pregnant women. Pregnant women who would be eligible for FMAP-related coverage groups except for excess income or resources. For FMAP-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were born and living with them.

(2) FMAP-related persons under the age of 19. Persons under the age of 19 who would be eligible for an FMAP-related coverage group except for excess income.

(3) CMAP-related persons under the age of 21. Persons under the age of 21 who would be eligible in accordance with subrule 75.1(15) except for excess income.

(4) SSI-related persons. Persons who would be eligible for SSI except for excess income or resources.

(5) FMAP-specified relatives. Persons whose income or resources exceed the family medical assistance program's limit and who are a specified relative as defined at subrule 75.55(1) living with a child who is determined dependent.

b. Resources and income of all persons considered.

(1) Resources of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35) "b"(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility of adults. Resources of all specified relatives and of all potentially eligible individuals living together shall be disregarded in determining eligibility of children. Income of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35) "b"(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility.

(2) The amount of income of the responsible relative that has been counted as available to an FMAP household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

(3) The resource determination shall be according to subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

c. Resources.

(1) The resource limit for adults in SSI-related households shall be \$10,000 per household.

(2) Disposal of resources for less than fair market value by SSI-related applicants or members shall be treated according to policies specified in rule 441—75.23(249A).

(3) The resource limit for FMAP- or CMAP-related adults shall be \$10,000 per household. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered according to department of public health 641—subrule 75.4(2).

(4) The resources of SSI-related persons shall be treated according to SSI policies.

(5) When a resource is jointly owned by SSI-related persons and FMAP-related persons, the resource shall be treated according to SSI policies for the SSI-related person and according to FMAP policies for the FMAP-related persons.

d. Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and continuing eligibility.

(1) Income policies specified in subrules 75.57(1) through 75.57(8) and paragraphs 75.57(9) “b,” “c,” “g,” “h,” and “i” regarding treatment of earned and unearned income are applied to FMAP-related and CMAP-related persons when determining initial eligibility and for determining continuing eligibility unless otherwise specified. The three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply to medically needy persons.

(2) Income policies as specified in federal SSI regulations regarding treatment of earned and unearned income are applied to SSI-related persons when determining initial and continuing eligibility.

(3) The monthly income shall be determined prospectively unless actual income is available.

(4) The income for the certification period shall be determined by adding both months’ net income together to arrive at a total.

(5) The income for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

e. Medically needy income level (MNIL).

(1) The MNIL is based on 133 1/3 percent of the schedule of basic needs, as provided in subrule 75.58(2), with households of one treated as households of two, as follows:

Number of Persons	1	2	3	4	5	6	7	8	9	10
MNIL	\$483	\$483	\$566	\$666	\$733	\$816	\$891	\$975	\$1058	\$1158

Each additional person \$116

(2) When determining household size for the MNIL, all potential eligibles and all individuals whose income is considered as specified in paragraph 75.1(35) “b” shall be included unless the person has been excluded according to the provisions of rule 441—75.59(249A).

(3) The MNIL for the certification period shall be determined by adding both months’ MNIL to arrive at a total.

The MNIL for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

(4) The total net countable income for the certification period shall be compared to the total MNIL for the certification period based on family size as specified in subparagraph (2).

If the total countable net income is equal to or less than the total MNIL, the medically needy individuals shall be eligible for Medicaid.

If the total countable net income exceeds the total MNIL, the medically needy individuals shall not be eligible for Medicaid unless incurred medical expenses equal or exceed the difference between the net income and the MNIL.

(5) Effective date of approval. Eligibility during the certification period or the retroactive certification period shall be effective as of the first day of the first month of the certification period or the retroactive certification period when the medically needy income level (MNIL) is met.

f. Verification of medical expenses to be used in spenddown calculation. The applicant or member shall submit evidence of medical expenses that are for noncovered Medicaid services and for covered services incurred prior to the certification period to the department on a claim form, which shall be completed by the medical provider. In cases where the provider is uncooperative or where returning to the provider would constitute an unreasonable requirement on the applicant or member, the form shall be completed by the worker. Verification of medical expenses for the applicant or member that are covered Medicaid services and occurred during the certification period shall be submitted by the provider to the Iowa Medicaid enterprise on a claim form. The applicant or member shall inform the

provider of the applicant's or member's spenddown obligation at the time services are rendered or at the time the applicant or member receives notification of a spenddown obligation. Verification of allowable expenses incurred for transportation to receive medical care as specified in rule 441—78.13(249A) shall be verified on Form 470-0394, Medical Transportation Claim.

Applicants who have not established that they met spenddown in the current certification period shall be allowed 12 months following the end of the certification period to submit medical expenses for that period or 12 months following the date of the notice of decision when the certification period had ended prior to the notice of decision.

g. Spenddown calculation.

(1) Medical expenses that are incurred during the certification period may be used to meet spenddown. Medical expenses incurred prior to a certification period shall be used to meet spenddown if not already used to meet spenddown in a previous certification period and if all of the following requirements are met. The expenses:

1. Remain unpaid as of the first day of the certification period.
2. Are not Medicaid-payable in a previous certification period or the retroactive certification period.
3. Are not incurred during any prior certification period with the exception of the retroactive period in which the person was conditionally eligible but did not meet spenddown.

Notwithstanding numbered paragraphs “1” through “3” above, paid medical expenses from the retroactive period can be used to meet spenddown in the retroactive period or in the certification period for the two months immediately following the retroactive period.

(2) Order of deduction. Spenddown shall be adjusted when a bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a bill for a covered service incurred prior to the certification period is subsequently received. Spenddown shall also be adjusted when a bill for a noncovered Medicaid service is subsequently received with a service date prior to the Medicaid-covered service. Spenddown shall be adjusted when an unpaid bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a paid bill for a covered service incurred in the certification period is subsequently received with a service date prior to the date of the notice of spenddown status.

If spenddown has been met and a bill is received with a service date after spenddown has been met, the bill shall not be deducted to meet spenddown.

Incurred medical expenses, including those reimbursed by a state or political subdivision program other than Medicaid, but excluding those otherwise subject to payment by a third party, shall be deducted in the following order:

1. Medicare and other health insurance premiums, deductibles, or coinsurance charges.

EXCEPTION: When some of the household members are eligible for full Medicaid benefits under the Health Insurance Premium Payment Program (HIPP), as provided in rule 441—75.21(249A), the health insurance premium shall not be allowed as a deduction to meet the spenddown obligation of those persons in the household in the medically needy coverage group.

2. An average statewide monthly standard deduction for the cost of medically necessary personal care services provided in a licensed residential care facility shall be allowed as a deduction for spenddown. These personal care services include assistance with activities of daily living such as preparation of a special diet, personal hygiene and bathing, dressing, ambulation, toilet use, transferring, eating, and managing medication.

The average statewide monthly standard deduction for personal care services shall be based on the average per day rate of health care costs associated with residential care facilities participating in the state supplementary assistance program for a 30.4-day month as computed in the Compilation of Various Costs and Statistical Data (Category: All; Type of Care: Residential Care Facility; Location: All; Type of Control: All). The average statewide standard deduction for personal care services used in the medically needy program shall be updated and effective the first day of the first month beginning two full months after the release of the Compilation of Various Costs and Statistical Data for the previous fiscal year.

3. Medical expenses for necessary medical and remedial services that are recognized under state law but not covered by Medicaid, chronologically by date of submission.

4. Medical expenses for acupuncture, chronologically by date of submission.

5. Medical expenses for necessary medical and remedial services that are covered by Medicaid, chronologically by date of submission.

(3) When incurred medical expenses have reduced income to the applicable MNIL, the individuals shall be eligible for Medicaid.

(4) Medical expenses reimbursed by a public program other than Medicaid prior to the certification period shall not be considered a medical deduction.

h. Medicaid services. Persons eligible for Medicaid as medically needy will be eligible for all services covered by Medicaid except:

(1) Care in a nursing facility or an intermediate care facility for the mentally retarded.

(2) Care in an institution for mental disease.

(3) Care in a Medicare-certified skilled nursing facility.

i. Reviews. Reviews of eligibility shall be made for SSI-related, CMAP-related, and FMAP-related medically needy members with a zero spenddown as often as circumstances indicate but in no instance shall the period of time between reviews exceed 12 months.

SSI-related, CMAP-related, and FMAP-related medically needy persons shall complete Form 470-3118 or 470-3118(S), Medicaid Review, as part of the review process when requested to do so by the department.

j. Redetermination. When an SSI-related, CMAP-related, or FMAP-related member who has had ongoing eligibility because of a zero spenddown has income that exceeds the MNIL, a redetermination of eligibility shall be completed to change the member's eligibility to a two-month certification with spenddown. This redetermination shall be effective the month the income exceeds the MNIL or the first month following timely notice.

(1) The Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or Form 470-0466(Spanish), shall be used to determine eligibility for SSI-related medically needy when an SSI recipient has been determined to be ineligible for SSI due to excess income or resources in one or more of the months after the effective date of the SSI eligibility decision.

(2) All eligibility factors shall be reviewed on redeterminations of eligibility.

k. Recertifications. A new application shall be made when the certification period has expired and there has been a break in assistance as defined at rule 441—75.25(249A). When the certification period has expired and there has not been a break in assistance, the person shall use the Medicaid Review, Form 470-3118 or 470-3118(S), to be recertified.

l. Disability determinations. An applicant receiving social security disability benefits under Title II of the Social Security Act or railroad retirement benefits based on the Social Security Act definition of disability by the Railroad Retirement Board shall be deemed disabled without any further determination. In other cases under the medically needy program, the department shall conduct an independent determination of disability unless the applicant has been denied supplemental security income benefits based on lack of disability and does not allege either (1) a disabling condition different from or in addition to that considered by the Social Security Administration, or (2) that the applicant's condition has changed or deteriorated since the most recent Social Security Administration determination.

(1) In conducting an independent determination of disability, the department shall use the same criteria required by federal law to be used by the Social Security Administration of the United States Department of Health and Human Services in determining disability for purposes of Supplemental Security Income under Title XVI of the Social Security Act. The disability determination services bureau of the division of vocational rehabilitation shall make the initial disability determination on behalf of the department.

(2) For an independent determination of disability, the applicant or the applicant's authorized representative shall complete, sign and submit Form 470-4459 or 470-4459(S), Authorization to Disclose Information to the Department of Human Services, and either:

1. Form 470-2465, Disability Report for Adults, if the applicant is aged 18 or over; or
2. Form 470-3912, Disability Report for Children, if the applicant is under the age of 18.
- (3) In connection with any independent determination of disability, the department shall determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility. When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms as required in subparagraph (2).

75.1(36) Expanded specified low-income Medicare beneficiaries. As long as 100 percent federal funding is available under the federal Qualified Individuals (QI) Program, Medicaid benefits to cover the cost of the Medicare Part B premium shall be available to persons who are entitled to Medicare Part A provided the following conditions are met:

- a. The person is not otherwise eligible for Medicaid.
- b. The person's monthly income is at least 120 percent of the federal poverty level but is less than 135 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.
- c. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits.
- d. The amount of the income and resources shall be determined the same as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.
- e. The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

75.1(37) Home health specified low-income Medicare beneficiaries. Rescinded IAB 10/30/02, effective 1/1/03.

75.1(38) Continued Medicaid for disabled children from August 22, 1996. Medical assistance shall be available to persons who were receiving SSI as of August 22, 1996, and who would continue to be eligible for SSI but for Section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

75.1(39) Working persons with disabilities.

- a. Medical assistance shall be available to all persons who meet all of the following conditions:
 - (1) They are disabled as determined pursuant to rule 441—75.20(249A), except that being engaged in substantial gainful activity will not preclude a determination of disability.
 - (2) They are less than 65 years of age.
 - (3) They are members of families (including families of one) whose income is less than 250 percent of the most recently revised official federal poverty level for the family. Family income shall include gross income of all family members, less supplemental security income program disregards, exemptions, and exclusions, including the earned income disregards. However, income attributable to a social security cost-of-living adjustment shall be included only in determining eligibility based on a subsequently published federal poverty level.
 - (4) They receive earned income from employment or self-employment or are eligible under paragraph 75.1(39)“c.”
 - (5) They would be eligible for medical assistance under another coverage group set out in this rule (other than the medically needy coverage groups at subrule 75.1(35)), disregarding all income, up to \$10,000 of available resources, and any additional resources held by the disabled individual in a retirement account, a medical savings account, or an assistive technology account. For this purpose, disability shall be determined as under subparagraph 75.1(39)“a”(1) above.
 - (6) They have paid any premium assessed under paragraph 75.1(39)“b” below.
- b. Eligibility for a person whose gross income is greater than 150 percent of the federal poverty level for an individual is conditional upon payment of a premium. Gross income includes all earned and unearned income of the conditionally eligible person, except that income attributable to a social

security cost-of-living adjustment shall be included only in determining premium liability based on a subsequently published federal poverty level. A monthly premium shall be assessed at the time of application and at the annual review. The premium amounts and the federal poverty level increments above 150 percent of the federal poverty level used to assess premiums will be adjusted annually on August 1.

(1) Beginning with the month of application, the monthly premium amount shall be established based on projected average monthly income. The monthly premium established shall not be increased for any reason before the next eligibility review. The premium shall not be reduced due to a change in the federal poverty level but may be reduced or eliminated prospectively before the next eligibility review if a reduction in projected average monthly income is verified.

(2) Eligible persons are required to complete and return Form 470-3118 or 470-3118(S), Medicaid Review, with income information during the twelfth month of the annual enrollment period to determine the premium to be assessed for the next 12-month enrollment period.

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$29
165% of Federal Poverty Level	\$39
180% of Federal Poverty Level	\$44
200% of Federal Poverty Level	\$51
225% of Federal Poverty Level	\$56
250% of Federal Poverty Level	\$66
300% of Federal Poverty Level	\$86
350% of Federal Poverty Level	\$106
400% of Federal Poverty Level	\$124
450% of Federal Poverty Level	\$144
550% of Federal Poverty Level	\$182
650% of Federal Poverty Level	\$221
750% of Federal Poverty Level	\$262
850% of Federal Poverty Level	\$305
1000% of Federal Poverty Level	\$369
1150% of Federal Poverty Level	\$440
1300% of Federal Poverty Level	\$515
1480% of Federal Poverty Level	\$598

(4) Eligibility is contingent upon the payment of any assessed premiums. Medical assistance eligibility shall not be made effective for a month until the premium assessed for the month is paid. The premium must be paid within three months of the month of coverage or of the month of initial billing, whichever is later, for the person to be eligible for the month.

(5) When the department notifies the applicant of the amount of the premiums, the applicant shall pay any premiums due as follows:

1. The premium for each month is due the fourteenth day of the month the premium is to cover. EXCEPTIONS: The premium for the month of initial billing is due the fourteenth day of the following month; premiums for any months prior to the month of initial billing are due on the fourteenth day of the third month following the month of billing.

2. If the fourteenth day falls on a weekend or a state holiday, payment is due the first working day following the holiday or weekend.

3. When any premium payment due in the month it is to cover is not received by the due date, Medicaid eligibility shall be canceled.

(6) Payments received shall be applied in the following order:

1. To the month in which the payment is received if the premium for the current calendar month is unpaid.

2. To the following month when the payment is received after a billing statement has been issued for the following month.

3. To prior months when a full payment has not been received. Payments shall be applied beginning with the most recent unpaid month before the current calendar month, then the oldest unpaid prior month and forward until all prior months have been paid.

4. When premiums for all months above have been paid, any excess shall be held and applied to any months for which eligibility is subsequently established, as specified in numbered paragraphs "1," "2," and "3" above, and then to future months when a premium becomes due.

5. Any excess on an inactive account shall be refunded to the client after two calendar months of inactivity or of a zero premium or upon request from the client.

(7) An individual's case may be reopened when Medicaid eligibility is canceled for nonpayment of premium. However, the full premium must be received by the department on or before the last day of the month following the month the premium is to cover.

(8) Premiums may be submitted in the form of money orders or personal checks to the address printed on the coupon attached to Form 470-3902, MEPD Billing Statement.

(9) Once an individual is canceled from Medicaid due to nonpayment of premiums, the individual must reapply to establish Medicaid eligibility unless the reopening provisions of this subrule apply.

(10) When a premium due in the month it is to cover is not received by the due date, a notice of decision will be issued to cancel Medicaid. The notice will include reopening provisions that apply if payment is received and appeal rights.

(11) Form 470-3902, MEPD Billing Statement, shall be used for billing and collection.

c. Members in this coverage group who become unable to work due to a change in their medical condition or who lose employment shall remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria under this subrule. Members shall submit Form 470-4856, MEPD Intent to Return to Work, to report on the end of their employment and their intent to return to employment.

d. For purposes of this subrule, the following definitions apply:

"Assistive technology" is the systematic application of technologies, engineering, methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, technology devices and assistive technology services.

"Assistive technology accounts" include funds in contracts, savings, trust or other financial accounts, financial instruments or other arrangements with a definite cash value set aside and designated for the purchase, lease or acquisition of assistive technology, assistive technology devices or assistive technology services. Assistive technology accounts must be held separate from other accounts and funds and must be used to purchase, lease or otherwise acquire assistive technology, assistive technology services or assistive technology devices for the working person with a disability when a physician, certified vocational rehabilitation counselor, licensed physical therapist, licensed speech therapist, or licensed occupational therapist has established the medical necessity of the device, technology, or service and determined the technology, device, or service can reasonably be expected to enhance the individual's employment.

"Assistive technology device" is any item, piece of equipment, product system or component part, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities or address or eliminate architectural, communication, or other barriers confronted by persons with disabilities.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device or other assistive technology. It

includes, but is not limited to, services referred to or described in the Assistive Technology Act of 1998, 29 U.S.C. 3002(4).

“Family,” if the individual is under 18 and unmarried, includes parents living with the individual, siblings under 18 and unmarried living with the individual, and children of the individual who live with the individual. If the individual is 18 years of age or older, or married, *“family”* includes the individual’s spouse living with the individual and any children living with the individual who are under 18 and unmarried. No other persons shall be considered members of an individual’s family. An individual living alone or with others not listed above shall be considered to be a family of one.

“Medical savings account” means an account exempt from federal income taxation pursuant to Section 220 of the United States Internal Revenue Code (26 U.S.C. § 220).

“Retirement account” means any retirement or pension fund or account, listed in Iowa Code section 627.6(8) *“f”* as exempt from execution, regardless of the amount of contribution, the interest generated, or the total amount in the fund or account.

75.1(40) *People who have been screened and found to need treatment for breast or cervical cancer:*

a. Medical assistance shall be available to people who:

(1) Have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and have been found to need treatment for either breast or cervical cancer (including a precancerous condition);

(2) Do not otherwise have creditable coverage, as that term is defined by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. Section 300gg(c)(1)), and are not eligible for medical assistance under Iowa Code section 249A.3(1); and

(3) Are under the age of 65.

b. Eligibility established under paragraph *“a”* continues until the person is:

(1) No longer receiving treatment for breast or cervical cancer;

(2) No longer under the age of 65; or

(3) Covered by creditable coverage or eligible for medical assistance under Iowa Code section 249A.3(1).

c. Presumptive eligibility. A person who has been screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act, who has been found to need treatment for either breast or cervical cancer (including a precancerous condition), and who is determined by a qualified provider to be presumptively eligible for medical assistance under paragraph *“a”* shall be eligible for medical assistance until the last day of the month following the month of the presumptive eligibility determination if no Medicaid application is filed in accordance with rule 441—76.1(249A) by that day or until the date of a decision on a Medicaid application filed in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, whichever is earlier.

The person shall complete Form 470-2927 or 470-2927(S), Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. Presumptive eligibility shall begin no earlier than the date the qualified Medicaid provider determines eligibility.

Payment of claims for services provided to a person under this paragraph is not dependent upon a finding of Medicaid eligibility for the person.

(1) A provider who is qualified to determine presumptive eligibility is defined as a provider who:

1. Is eligible for payment under the Medicaid program; and

2. Either:

- Has been named lead agency for a county or regional local breast and cervical cancer early detection program under a contract with the department of public health; or

- Has a cooperative agreement with the department of public health under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act to receive reimbursement for providing breast or cervical cancer

screening or diagnostic services to participants in the Care for Yourself Breast and Cervical Cancer Early Detection Program; and

3. Has made application and has been specifically designated by the department in writing as a qualified provider for the purpose of determining presumptive eligibility under this rule.

(2) The provider shall complete Form 470-3864, Application for Authorization to Make Presumptive Medicaid Eligibility Determinations (BCCT), and submit it to the department for approval in order to be designated as a provider qualified to make presumptive eligibility determinations. Once the department has approved the provider's application, the provider and the department shall sign Form 470-3865, Memorandum of Understanding with a Qualified Provider for People with Breast or Cervical Cancer Treatment. When both parties have signed the memorandum, the department shall designate the provider as a qualified provider and notify the provider.

(3) When a qualified provider has made a presumptive eligibility determination for a person, the provider shall:

1. Contact the department to obtain a state identification number for the person who has been determined presumptively eligible.

2. Notify the department in writing of the determination within five working days after the date the presumptive eligibility determination is made. The provider shall use a copy of Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, for this purpose.

3. Inform the person in writing, at the time the determination is made, that if the person has not applied for Medicaid on Form 470-2927 or 470-2927(S), Health Services Application, the person has until the last day of the month following the month of the preliminary determination to file the application with the department. The qualified provider shall use Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, for this purpose.

4. Forward copies of Form 470-2927 or 470-2927(S), Health Services Application, to the appropriate department office for eligibility determination if the person indicated on the application that the person was applying for any of the other programs. The provider shall forward these copies and proof of screening for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program within two working days from the date of the presumptive eligibility determination.

(4) In the event that a person needing care does not appear to be presumptively eligible, the qualified provider shall inform the person that the person may file an application at the county department office if the person wishes to have an eligibility determination made by the department.

(5) Presumptive eligibility shall end under either of the following conditions:

1. The person fails to file an application for Medicaid in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination.

2. The person files a Medicaid application by the last day of the month following the month of the presumptive eligibility determination and is found ineligible for Medicaid.

(6) Adequate and timely notice requirements and appeal rights shall apply to an eligibility determination made on a Medicaid application filed pursuant to rule 441—76.1(249A). However, notice requirements and appeal rights of the Medicaid program shall not apply to a person who is:

1. Denied presumptive eligibility by a qualified provider.

2. Determined to be presumptively eligible by a qualified provider and whose presumptive eligibility ends because the person fails to file an application by the last day of the month following the month of the presumptive eligibility determination.

(7) A new period of presumptive eligibility shall begin each time a person is screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act, is found to need treatment for breast or cervical cancer, and files Form 470-2927 or 470-2927(S), Health Services Application, with a qualified provider.

75.1(41) *Persons eligible for family planning services under demonstration waiver.* Medical assistance for family planning services only shall be available as provided in this subrule.

a. Eligibility. The following are eligible for assistance under this coverage group if they are not otherwise enrolled in Medicaid (other than IowaCare):

(1) Women who were Medicaid members when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 60-day postpartum period ends.

(2) Women who have reached childbearing age, are under 55 years of age, are capable of bearing children but are not pregnant, and have income that does not exceed 305 percent of the federal poverty level, as determined according to paragraph 75.1(41)“c.”

(3) Men who are under 55 years of age, who are capable of fathering children, and who have income that does not exceed 305 percent of the federal poverty level, as determined according to paragraph 75.1(41)“c.”

b. Application.

(1) Women eligible under subparagraph 75.1(41)“a”(1) are not required to file an application for assistance under this coverage group. The department will automatically redetermine eligibility pursuant to rule 441—76.11(249A) upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

(2) A person requesting assistance based on subparagraph 75.1(41)“a”(2) or 75.1(41)“a”(3) shall file an application as required in rule 441—76.1(249A).

c. Determining income eligibility. The department shall determine the countable income of an applicant applying under subparagraph 75.1(41)“a”(2) or 75.1(41)“a”(3) as follows:

(1) Household size. The household size shall include the applicant or member, any dependent children as defined in subrule 75.54(1) living in the same home as the applicant or member, and any spouse living in the same home as the applicant or member, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act.

(2) Earned income. All earned income as defined in subrule 75.57(2) that is received by a member of the household shall be counted except for the earnings of a child who is a full-time student as defined in paragraph 75.54(1)“b.”

(3) Unearned income. The following unearned income of all household members shall be counted:

1. Unemployment compensation.

2. Child support.

3. Alimony.

4. Social security and railroad retirement benefits.

5. Worker’s compensation and disability payments.

6. Benefits paid by the Department of Veterans Affairs to disabled members of the armed forces or survivors of deceased veterans.

(4) Deductions. Deductions from income shall be made for any payments made by household members for court-ordered child support, alimony, or spousal support to non-household members and as provided in subrule 75.57(2).

(5) Disregard of changes. A person found to be income-eligible upon application or annual redetermination of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

d. Effective date. Assistance for family planning services under this coverage group shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. Notwithstanding 441—subrule 76.5(1), assistance shall not be available under this coverage group for any months preceding the month of application.

75.1(42) Medicaid for independent young adults. Medical assistance shall be available, as assistance related to the family medical assistance program, to a person who left a foster care placement on or after May 1, 2006, and meets all of the following conditions:

a. The person is at least 18 years of age and under 21 years of age.

b. On the person’s eighteenth birthday, the person resided in foster care and Iowa was responsible for the foster care payment pursuant to Iowa Code section 234.35.

c. The person is not a mandatory household member or receiving Medicaid benefits under another coverage group.

d. The person has income below 200 percent of the most recently revised federal poverty level for the person's household size.

(1) "Household" shall mean the person and any of the following people who are living with the person and are not active on another Medicaid case:

1. The person's own children;
2. The person's spouse; and
3. Any children of the person's spouse who are under the age of 18 and unmarried.

No one else shall be considered a member of the person's household. A person who lives alone or with others not listed above, including the person's parents, shall be considered a household of one.

(2) The department shall determine the household's countable income pursuant to rule 441—75.57(249A). Twenty percent of earned income shall be disregarded.

(3) A person found to be income-eligible upon application or upon annual redetermination of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

75.1(43) Medicaid for children with disabilities. Medical assistance shall be available to children who meet all of the following conditions on or after January 1, 2009:

a. The child is under 19 years of age.

b. The child is disabled as determined pursuant to rule 441—75.20(249A) based on the disability standards for children used for Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, but without regard to any income or asset eligibility requirements of the SSI program.

c. The child is enrolled in any group health plan available through the employer of a parent living in the same household as the child if the employer contributes at least 50 percent of the total cost of annual premiums for that coverage. The parent shall enroll the child and pay any employee premium required to maintain coverage for the child.

d. The child's household has income at or below 300 percent of the federal poverty level applicable to a family of that size.

(1) For this purpose, the child's household shall include any of the following persons who are living with the child and are not receiving Medicaid on another case:

1. The child's parents.
2. The child's siblings under the age of 19.
3. The child's spouse.
4. The child's children.
5. The children of the child's spouse.

(2) Only those persons identified in subparagraph (1) shall be considered a member of the child's household. A person who receives medically needy coverage with a spenddown or limited benefits such as Medicare savings programs or family planning services only is not considered to be "receiving Medicaid" for the purposes of subparagraph (1). A child who lives alone or with persons not identified in subparagraph (1) shall be considered as having a household of one.

(3) For this purpose, the income of all persons included in the child's household shall be determined as provided for SSI-related groups under subrule 75.13(2).

(4) The federal poverty levels used to determine eligibility shall be revised annually on April 1.

75.1(44) Presumptive eligibility for children. Medical assistance shall be available to children under the age of 19 who are determined by a qualified entity to be presumptively eligible for medical assistance pursuant to this subrule.

a. *Qualified entity.* A "qualified entity" is an entity described in paragraphs (1) through (10) of the definition of the term at 42 CFR 435.1101, as amended to October 1, 2008, that:

- (1) Has been determined by the department to be capable of making presumptive determinations of eligibility, and
- (2) Has signed an agreement with the department as a qualified entity.

b. Application process. Families requesting assistance for children under this subrule shall apply with a qualified entity using the form specified in 441—paragraph 76.1(1) “f.” The qualified entity shall use the department’s Web-based system to make the presumptive eligibility determination, based on the information provided in the application.

(1) All presumptive eligibility applications shall be forwarded to the department for a full Medicaid or HAWK-I eligibility determination, regardless of the child’s presumptive eligibility status.

(2) The date a valid application was received by the qualified entity establishes the date of application for purposes of determining the effective date of Medicaid or HAWK-I eligibility unless the qualified entity received the application on a weekend or state holiday. Applications received by the qualified entity on a weekend or a state holiday shall be considered to be received on the first business day following the weekend or state holiday.

(3) The qualified entity shall issue Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, to inform the applicant of the decision on the application as soon as possible but no later than within two working days after the date the determination is made.

(4) Timely and adequate notice requirements and appeal rights of the Medicaid program shall not apply to presumptive eligibility decisions made by a qualified entity.

c. Eligibility requirements. To be determined presumptively eligible for medical assistance, a child shall meet the following eligibility requirements.

(1) Age. The child must be under the age of 19.

(2) Household income. Household income must be less than 300 percent of the federal poverty level for a household of the same size. For this purpose, the household shall include the applicant child and any sibling (of whole or half blood, or adoptive), spouse, parent, or stepparent living with the applicant child. This determination shall be based on the household’s gross income, with no deductions, diversions, or disregards.

(3) Citizenship or qualified alien status. The child must be a citizen of the United States or a qualified alien as defined in subrule 75.11(2).

(4) Iowa residency. The child must be a resident of Iowa.

(5) Prior presumptive eligibility. A child shall not be determined presumptively eligible more than once in a 12-month period. The first month of the 12-month period begins with the month the application is received by the qualified entity.

d. Period of presumptive eligibility. Presumptive eligibility shall begin with the date that presumptive eligibility is determined and shall continue until the earliest of the following dates:

(1) The last day of the next calendar month;

(2) The day the child is determined eligible for Medicaid;

(3) The last day of the month that the child is determined eligible for HAWK-I; or

(4) The day the child is determined ineligible for Medicaid and HAWK-I. Withdrawal of the Medicaid or HAWK-I application before eligibility is determined shall not affect the child’s eligibility during the presumptive period.

e. Services covered. Children determined presumptively eligible under this subrule shall be entitled to all Medicaid-covered services, including early and periodic screening, diagnosis, and treatment (EPSDT) services. Payment of claims for Medicaid services provided to a child during the presumptive eligibility period, including EPSDT services, is not dependent upon a determination of Medicaid or HAWK-I eligibility by the department.

75.1(45) Medicaid for former foster care youth. Effective January 1, 2014, medical assistance shall be available to a person who meets all of the following conditions:

a. The person is at least 18 years of age (or such higher age to which foster care is provided to the person) and under 26 years of age;

b. The person is not described in or enrolled under any of Subclauses (I) through (VII) of Section 1902(a)(10)(A)(i) of Title XIX of the Social Security Act or is described in any of such subclauses but has income that exceeds the level of income applicable under Iowa’s state Medicaid plan for eligibility to enroll for medical assistance under such subclause;

c. The person was in foster care under the responsibility of Iowa on the date of attaining 18 years of age or such higher age to which foster care is provided; and

d. The person was enrolled in the Iowa Medicaid program under Title XIX of the Social Security Act while in such foster care.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4 and 249A.6.
 [ARC 7741B, IAB 5/6/09, effective 7/1/09; ARC 7833B, IAB 6/3/09, effective 8/1/09; ARC 7929B, IAB 7/1/09, effective 7/1/09; ARC 7931B, IAB 7/1/09, effective 7/1/09; ARC 8095B, IAB 9/9/09, effective 10/14/09; ARC 8260B, IAB 11/4/09, effective 1/1/10; ARC 8261B, IAB 11/4/09, effective 10/15/09; ARC 8439B, IAB 1/13/10, effective 3/1/10; ARC 8503B, IAB 2/10/10, effective 1/13/10; ARC 8713B, IAB 5/5/10, effective 8/1/10; ARC 8897B, IAB 6/30/10, effective 9/1/10; ARC 9581B, IAB 6/29/11, effective 8/3/11; ARC 9647B, IAB 8/10/11, effective 8/1/11; ARC 9956B, IAB 1/11/12, effective 1/1/12; ARC 0149C, IAB 6/13/12, effective 8/1/12; ARC 0579C, IAB 2/6/13, effective 4/1/13; ARC 0820C, IAB 7/10/13, effective 8/1/13; ARC 0990C, IAB 9/4/13, effective 1/1/14; ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.2(249A) Medical resources. Medical resources include health and accident insurance, eligibility for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Social Security Act (Medicare), and other resources for meeting the cost of medical care which may be available to the member. These resources must be used when reasonably available.

75.2(1) The department shall approve payment only for those services or that part of the cost of a given service for which no medical resources exist unless pay and chase provisions as defined in rule 441—75.25(249A) are applicable.

a. Persons who have been approved by the Social Security Administration for Supplemental Security Income shall complete Form 470-0364, 470-0364(M), 470-0364(MS), or 470-0364(S), SSI Medicaid Information, and return it to the department.

b. Persons eligible for Part B of the Medicare program shall make assignment to the department on Form 470-0364, 470-0364(M), 470-0364(MS), or 470-0364(S), SSI Medicaid Information.

75.2(2) As a condition of eligibility for medical assistance, a person who has the legal capacity to execute an assignment shall do all of the following:

a. Assign to the department any rights to payments of medical care from any third party to the extent that payment has been made under the medical assistance program. The applicant's signature on any form listed in 441—subrule 76.1(1) shall constitute agreement to the assignment. The assignment shall be effective for the entire period for which medical assistance is paid.

b. Cooperate with the department in obtaining third-party payments. The member or one acting on the member's behalf shall:

- (1) File a claim or submit an application for any reasonably available medical resource, and
- (2) Cooperate in the processing of the claim or application.

c. Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

75.2(3) Good cause for failure to cooperate in the filing or processing of a claim or application shall be considered to exist when the member, or one acting on behalf of a minor, or of a legally incompetent adult member, is physically or mentally incapable of cooperation. Good cause shall be considered to exist when cooperation is reasonably anticipated to result in:

- a. Physical or emotional harm to the member for whom medical resources are being sought.
- b. Physical or emotional harm to the parent or payee, acting on the behalf of a minor, or of a legally incompetent adult member, for whom medical resources are being sought.

75.2(4) Failure to cooperate as required in subrule 75.2(2) without good cause as defined in subrule 75.2(3) shall result in the termination of medical assistance benefits. The department shall make the determination of good cause based on information and evidence provided by the member or by one acting on the member's behalf.

a. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources.

b. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in

the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5 and 249A.6.
[ARC 7546B, IAB 2/11/09, effective 4/1/09; ARC 8503B, IAB 2/10/10, effective 1/13/10; ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.3(249A) Acceptance of other financial benefits. An applicant or member shall take all steps necessary to apply for and, if entitled, accept any income or resources for which the applicant or member may qualify, unless the applicant or member can show an incapacity to do so. Sources of benefits may be, but are not limited to, annuities, pensions, retirement or disability benefits, veterans' compensation and pensions, old-age, survivors, and disability insurance, railroad retirement benefits, black lung benefits, or unemployment compensation.

75.3(1) When it is determined that the supplemental security income (SSI)-related applicant or member may be entitled to other cash benefits, the department shall send a Notice Regarding Acceptance of Other Benefits, Form 470-0383, to the applicant or member.

75.3(2) The SSI-related applicant or member must express an intent to apply or refuse to apply for other benefits within ten calendar days from the date the notice is issued. A signed refusal to apply or failure to return the form shall result in denial of the application or cancellation of Medicaid unless the applicant or member is mentally or physically incapable of filing the claim for other cash benefits.

75.3(3) When the SSI-related applicant or member is physically or mentally incapable of filing the claim for other cash benefits, the department shall request the person acting on behalf of the member to pursue the potential benefits.

75.3(4) The SSI-related applicant or member shall cooperate in applying for the other benefits. Failure to timely secure the other benefits shall result in cancellation of Medicaid.

EXCEPTION: An applicant or member shall not be required to apply for supplementary security income to receive Medicaid under subrule 75.1(17).

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

441—75.4(249A) Medical assistance lien.

75.4(1) When the medical assistance program pays for a member's medical care or expenses, the department shall have a lien upon all monetary claims which the member may have against third parties for those expenses. Monetary claims shall include medical malpractice claims for injuries sustained on or after July 1, 2011. The lien shall be to the extent of the medical assistance payments only.

a. A lien is not effective unless the department files a notice of lien with the clerk of the district court in the county where the member resides and with the member's attorney when the member's eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the member, the member's attorney, or other representative.

b. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final.

(1) A compromise, including, but not limited to, notification, settlement, waiver or release of a claim, does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee under which the department would receive less than full reimbursement of the amounts it expended.

(2) A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a member or on behalf of a member which fails to state a claim for recovery of medical expenses does not defeat the department's lien if there is any recovery on the member's claim.

c. All notifications to the department required by law shall be directed to the Iowa Medicaid Enterprise, Revenue Collection Unit, P.O. Box 36475, Des Moines, Iowa 50315. Notification shall be considered made as of the time the notification is deposited so addressed, postage prepaid, in the United States Postal Service system.

75.4(2) The department may pursue its rights to recover either directly from any third party or from any recovery obtained by or on behalf of any member. If a member incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department has a lien

under this section, upon the receipt of the judgment or settlement of the total claim, of which the lien for medical assistance payments is a part, the court costs and reasonable attorney fees shall first be deducted from this total judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the member. From the remaining balance, the lien of the department shall be paid. Any amount remaining shall be paid to the member. An attorney acting on behalf of a member for the purpose of enforcing a claim to which the department has a lien shall not collect from the member any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this rule. The department will provide computer-generated documents or claim forms describing the services for which it has paid upon request of any affected member or the member's attorney. The documents may also be provided to a third party where necessary to establish the extent of the department's claim.

75.4(3) In those cases where appropriate notification is not given to the department or where the department's recovery rights are otherwise adversely affected by an action of the member or one acting on the member's behalf, medical assistance benefits shall be terminated. The medical assistance benefits of a minor child or a legally incompetent adult member shall not be terminated. Subsequent eligibility for medical assistance benefits shall be denied until an amount equal to the unrecovered claim has been reimbursed to the department or the individual produces documentation of incurred medical expense equal to the amount of the unrecovered claim. The incurred medical expense shall not be paid by the medical assistance program.

a. The client, or one acting on the client's behalf, shall provide information and verification as required to establish the availability of medical or third-party resources.

b. Rescinded IAB 9/4/91, effective 11/1/91.

c. The client or person acting on the client's behalf shall complete Form 470-2826, Supplemental Insurance Questionnaire, in a timely manner at the time of application, when any change in medical resources occurs during the application period, and when any changes in medical resources occur after the application is approved.

A report shall be considered timely when made within ten days from:

(1) The date that health insurance begins, changes, or ends.

(2) The date that eligibility begins for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Social Security Act (Medicare) and other resources.

(3) The date the client, or one acting on the client's behalf, files an insurance claim against an insured third party, for the payment of medical expenses that otherwise would be paid by Medicaid.

(4) The date the member, or one acting on the member's behalf, retains an attorney with the expectation of seeking restitution for injuries from a possibly liable third party, and the medical expenses resulting from those injuries would otherwise be paid by Medicaid.

(5) The date that the member, or one acting on the member's behalf, receives a partial or total settlement for the payment of medical expenses that would otherwise be paid by Medicaid.

The member may report the change in person, by telephone, by mail or by using the Ten-Day Report of Change, Form 470-0499 or 470-0499(S), which is mailed with the Family Investment Program warrants and is issued to the client when Medicaid applications are approved, when annual reviews are completed, when a completed Ten-Day Report of Change is submitted, and when the client requests a form.

d. The member, or one acting on the member's behalf, shall complete the Priority Leads Letter, Form 470-0398, when the department has reason to believe that the member has sustained an accident-related injury. Failure to cooperate in completing and returning this form, or in giving complete and accurate information, shall result in the termination of Medicaid benefits.

e. When the recovery rights of the department are adversely affected by the actions of a parent or payee acting on behalf of a minor or legally incompetent adult member, the Medicaid benefits of the parent or payee shall be terminated. When a parent or payee fails to cooperate in completing or returning the Priority Leads Letter, Form 470-0398, or the Supplemental Insurance Questionnaire, Form 470-2826, or fails to give complete and accurate information concerning the accident-related injuries of a minor or

legally incompetent adult member, the department shall terminate the Medicaid benefits of the parent or payee.

f. The member, or one acting on the member's behalf, shall refund to the department from any settlement or payment received the amount of any medical expenses paid by Medicaid. Failure of the member to do so shall result in the termination of Medicaid benefits. In those instances where a parent or payee, acting on behalf of a minor or legally incompetent adult member, fails to refund a settlement overpayment to the department, the Medicaid benefits of the parent or payee shall be terminated.

75.4(4) Third party and provider responsibilities.

a. The health care services provider shall inform the department by appropriate notation on the Health Insurance Claim, Form CMS-1500, that other coverage exists but did not cover the service being billed or that payment was denied.

b. The health care services provider shall notify the department in writing by mailing copies of any billing information sent to a member, an attorney, an insurer or other third party after a claim has been submitted to or paid by the department.

c. An attorney representing an applicant for medical assistance or a past or present Medicaid member on a claim to which the department has filed a lien under this rule shall notify the department of the claim of which the attorney has actual knowledge, before filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge shall include the notice to the attorney pursuant to subrule 75.4(1). The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or local office location, is adequate legal notice of the claim.

75.4(5) Department's lien.

a. The department's liens are valid and binding on an attorney, insurer or other third party only upon notice by the department or unless the attorney, insurer or other third party has actual notice that the member is receiving medical assistance from the department and only to the extent that the attorney, insurer or third party has not made payment to the member or an assignee of the member prior to the notice.

Any information released to an attorney, insurer or other third party, by the health care services provider, that indicates that reimbursement from the state was contemplated or received, shall be construed as giving the attorney, insurer or other third party actual knowledge of the department's involvement. For example, information supplied by a health care services provider which indicates medical assistance involvement shall be construed as showing involvement by the department under Iowa Code section 249A.6. Payment of benefits by an insurer or third party pursuant to the rights of the lienholder in this rule discharges the attorney, insurer or other third party from liability to the member or the member's assignee to the extent of the payment to the department.

b. When the department has reason to believe that an attorney is representing a member on a claim to which the department filed a lien under this rule, the department shall issue notice to that attorney of the department's lien rights by mailing the Notice of Medical Assistance Lien, Form 470-3030, to the attorney.

c. When the department has reason to believe that an insurer is liable for the costs of a member's medical expenses, the department shall issue notice to the insurer of the department's lien rights by mailing the Notice of Medical Assistance Lien, Form 470-3030, to the insurer.

d. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the attorney or insurer, is adequate legal notice of the department's subrogation rights.

75.4(6) For purposes of this rule, the term "third party" includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for medical assistance or a past or present Medicaid member.

75.4(7) The department may enforce its lien by a civil action against any liable third party.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5, and 249A.6.

[ARC 9696B, IAB 9/7/11, effective 9/1/11; ARC 9881B, IAB 11/30/11, effective 1/4/12]

441—75.5(249A) Determination of countable income and resources for persons in a medical institution. In determining eligibility for any coverage group under rule 441—75.1(249A), certain factors must be considered differently for persons who reside in a medical institution. They are:

75.5(1) Determining income from property.

a. Nontrust property. Where there is nontrust property, unless the document providing income specifies differently, income paid in the name of one person shall be available only to that person. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, including a Medicaid client, a client's spouse, or both, the income shall be considered in proportion to the Medicaid client's or spouse's interest. If payment is made jointly to both spouses and no interest is specified, one-half of the couple's joint interest shall be considered available for each spouse. If the client or the client's spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.

b. Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.

75.5(2) Division of income between married people for SSI-related coverage groups.

a. Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income shall be considered in determining eligibility for the institutionalized spouse.

b. Spouses institutionalized and living together. Partners in a marriage who are residing in the same room in a medical institution shall be treated as a couple until the first day of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or receive reduced benefits by considering them separate individuals or if they choose to be considered together. When spouses are treated as a couple, the combined income of the couple shall not exceed twice the amount of the income limit established in subrule 75.1(7). Persons treated together as a couple for income must be treated together for resources and persons treated individually for income must be treated individually for resources.

Spouses residing in the same room in a medical institution may be treated as individuals effective the first day of the seventh calendar month. The income of each spouse shall not exceed the income limit established in subrule 75.1(7).

c. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, shall be treated as individuals effective the month after the month the partners cease living together. Their income shall be treated separately for eligibility. If they live in the same facility after six months of continuous residence, they may be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or receive reduced benefits by considering them separate individuals or if they choose to be considered together.

In the month of entry into a medical institution, income shall not exceed the amount of the income limit established in subrule 75.1(7).

75.5(3) Attribution of resources to institutionalized spouse and community spouse. The department shall determine the attribution of a couple's resources to the institutionalized spouse and to the community spouse when the institutionalized spouse is expected to remain in a medical institution at least 30 consecutive days on or after September 30, 1989, at the beginning of the first continuous period of institutionalization.

a. When determined. The department shall determine the attribution of resources between spouses at the earlier of the following:

(1) When either spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility prior to an application for Medicaid benefits. This request must be accompanied by Form 470-2577, Resources Upon Entering a Medical Facility, and necessary documentation.

(2) When the institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, the applicant shall also complete Form 470-2577 and provide necessary documentation.

b. Information required. The couple must provide the social security number of the community spouse. The attribution process shall include a match of the Internal Revenue Service data for both the institutionalized and community spouses.

c. Resources considered. The resources attributed shall include resources owned by both the community spouse and institutionalized spouse except for the following resources:

(1) The home in which the spouse or relatives as defined in 441—paragraph 41.22(3)“a” live (including the land that appertains to the home).

(2) Household goods, personal effects, and one automobile.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of either spouse or any other member of the immediate family.

(4) Other property essential to the means of self-support of either spouse as to warrant its exclusion under the SSI program.

(5) Resources of a blind or disabled person who has a plan for achieving self-support as determined by division of vocational rehabilitation or the department of human services.

(6) For natives of Alaska, shares of stock held in a regional or a village corporation, during the period of 20 years in which the stock is inalienable, as provided in Section 7(h) and Section 8(c) of the Alaska Native Claims Settlement Act.

(7) Assistance under the Disaster Relief Act and Emergency Assistance Act or other assistance provided pursuant to federal statute on account of a presidentially declared major disaster and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(8) Any amount of underpayment of SSI or social security benefit due either spouse for one or more months prior to the month of receipt. This exclusion shall be limited to the first six months following receipt.

(9) A life insurance policy(ies) whose total face value is \$1500 or less per spouse.

(10) An amount, not in excess of \$1500 for each spouse that is separately identifiable and has been set aside to meet the burial and related expenses of that spouse. The amount of \$1500 shall be reduced by an amount equal to the total face value of all insurance policies which are owned by the person or spouse and the total of any amounts in an irrevocable trust or other irrevocable arrangement available to meet the burial and related expenses of that spouse.

(11) Federal assistance paid for housing occupied by the spouse.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a client comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which is subject to the treatment required by Section 216 of the Act.

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance by Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. § 1396r-5(f)(2)(A)(i)), the amount over the maximum shall be attributed to the institutionalized spouse. (The maximum limit is indexed annually according to the consumer price index.)

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

e. Notice and appeal rights. The department shall provide each spouse a notice of the attribution results. The notice shall state that either spouse has a right to appeal the attribution if the spouse believes:

- (1) That the attribution is incorrect, or
- (2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance.

If an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.

f. Appeals. Hearings on attribution decisions shall be governed by procedures in 441—Chapter 7. If the hearing establishes that the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance, there shall be substituted an amount adequate to provide the minimum monthly maintenance needs allowance.

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse. For an applicant who became an institutionalized spouse on or after February 8, 2006, all income of the institutionalized spouse that could be made available to the community spouse pursuant to 75.16(2) "d" shall be treated as countable income of the community spouse when the attribution decision was made on or after February 8, 2006.

(2) The amount of resources adequate to provide the community spouse minimum maintenance needs allowance shall be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the monthly maintenance needs allowance and other countable income not generated by either spouse's countable resources.

(3) The resources necessary to provide the minimum maintenance needs allowance shall be based on the maintenance needs allowance as provided by these rules at the time of the filing of the appeal.

(4) To receive the substituted allowance, the applicant shall be required to obtain one estimate of the cost of the annuity.

(5) The estimated cost of an annuity shall be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the estimated cost of an annuity. If the amount of resources previously attributed for the community spouse is greater than the estimated cost of an annuity, there shall be no substitution for the cost of the annuity, and the attribution will remain as previously determined.

(6) The applicant shall not be required to purchase this annuity as a condition of Medicaid eligibility.

(7) If the appellant provides a statement from an insurance company that it will not provide an estimate due to the potential annuitant's age, the amount to be set aside shall be determined using the following calculation: The difference between the community spouse's gross monthly income not generated by countable resources (times 12) and the minimum monthly maintenance needs allowance (times 12) shall be multiplied by the annuity factor for the age of the community spouse in the Table for an Annuity for Life published at the end of Iowa Code chapter 450. This amount shall be substituted for the amount of resources attributed to the community spouse pursuant to subparagraph 75.5(3) "f"(5).

75.5(4) Consideration of resources of married people.

a. One spouse in a medical facility who entered the facility on or after September 30, 1989.

(1) Initial month. When the institutionalized spouse is expected to stay in a medical facility less than 30 consecutive days, the resources of both spouses shall be considered in determining initial Medicaid eligibility.

When the institutionalized spouse is expected to be in a medical facility 30 consecutive days or more, only the resources not attributed to the community spouse according to subrule 75.5(3) shall be considered in determining initial eligibility for the institutionalized spouse.

The amount of resources counted for eligibility for the institutionalized spouse shall be the difference between the couple's total resources at the time of application and the amount attributed to the community spouse under this rule.

(2) Ongoing eligibility. After the month in which the institutionalized spouse is determined eligible, no resources of the community spouse shall be deemed available to the institutionalized spouse during

the continuous period in which the spouse is in an institution. Resources which are owned wholly or in part by the institutionalized spouse and which are not transferred to the community spouse shall be counted in determining ongoing eligibility. The resources of the institutionalized spouse shall not count for ongoing eligibility to the extent that the institutionalized spouse intends to transfer and does transfer the resources to the community spouse within 90 days unless unable to effect the transfer.

(3) Exception based on estrangement. When it is established by a disinterested third-party source that the institutionalized spouse is estranged from the community spouse, Medicaid eligibility will not be denied on the basis of resources when the applicant can demonstrate hardship.

The applicant can demonstrate hardship when the applicant is unable to obtain information about the community spouse's resources after exploring all legal means.

The applicant can also demonstrate hardship when resources attributed from the community spouse cause the applicant to be ineligible, but the applicant is unable to access these resources after exhausting legal means.

(4) Exception based on assignment of support rights. The institutionalized spouse shall not be ineligible by attribution of resources that are not actually available when:

1. The institutionalized spouse has assigned to the state any rights to support from the community spouse, or

2. The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the state has the right to bring a support proceeding against a community spouse without an assignment.

b. One spouse in a medical institution prior to September 30, 1989. When one spouse is in the medical institution prior to September 30, 1989, only the resources of the institutionalized spouse shall count for eligibility according to SSI policies the month after the month of entry. In the month of entry, the resources of both spouses are countable toward the couple resource limit.

c. Spouses institutionalized and living together. The combined resources of both partners in a marriage who are residing in the same room in a medical institution shall be subject to the resource limit for a married couple until the first of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for medical assistance effective with the seventh month if one partner would be ineligible for medical assistance or would receive reduced benefits by considering them separately or if they choose to be considered together. Persons treated together as a couple for resources must be treated together for income and persons treated individually for resources must be treated individually for income. Effective the first of the seventh calendar month of continuous residence, they may be treated as individuals, with the resource limit for each spouse the limit for a single person.

d. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, shall be treated as individuals effective the month after the month the partners cease living together. If they live in the same facility after six months of continuous residence, they may be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or would receive reduced benefits by considering them separately or if they choose to be considered together.

In the month of entry into a medical institution, all resources of both spouses shall be combined and shall be subject to the resource limit for a married couple.

75.5(5) Consideration of resources for persons in a medical institution who have purchased and used a qualified or approved long-term care insurance policy pursuant to department of commerce, division of insurance, rules in 191—Chapter 39 or 72.

a. Eligibility. A person may be eligible for medical assistance under this subrule if:

(1) The person is the beneficiary of a qualified long-term care insurance policy or is enrolled in a prepaid health care delivery plan that provides long-term care services pursuant to 191—Chapter 39 or 72; and

(2) The person is eligible for medical assistance under 75.1(6), 75.1(7), or 75.1(18) except for excess resources; and

(3) The excess resources causing ineligibility under the listed coverage groups do not exceed the “asset adjustment” provided in this subrule.

b. Definition. “Asset adjustment” shall mean a \$1 disregard of resources for each \$1 that has been paid out under the person’s qualified or approved long-term care insurance policy.

c. Estate recovery. An amount equal to the benefits paid out under a member’s qualified or approved long-term care insurance policy will be exempt from recovery from the estate of the member or the member’s spouse for payments made by the medical assistance program on behalf of the member.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4, and 249A.35 and chapter 514H.

[ARC 8443B, IAB 1/13/10, effective 3/1/10]

441—75.6(249A) Entrance fee for continuing care retirement community or life care community. When an individual resides in a continuing care retirement community or life care community that collects an entrance fee on admission, the entrance fee paid shall be considered a resource available to the individual for purposes of determining the individual’s Medicaid eligibility and the amount of benefits to the extent that:

1. The individual has the ability to use the entrance fee, or the contract between the individual and the community provides that the entrance fee may be used to pay for care should the individual’s other resources or income be insufficient to pay for such care;

2. The individual is eligible for a refund of any remaining entrance fee when the individual dies or when the individual terminates the community contract and leaves the community; and

3. The entrance fee does not confer an ownership interest in the community.

This rule is intended to implement Iowa Code section 249A.4.

441—75.7(249A) Furnishing of social security number.

75.7(1) As a condition of eligibility, except as provided by subrule 75.7(2), all social security numbers issued to each individual (including children) for whom Medicaid is sought must be furnished to the department.

75.7(2) The requirement of subrule 75.7(1) does not apply to an individual who:

a. Is not eligible to receive a social security number;

b. Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104; or

c. Refuses to obtain a social security number because of a well-established religious objection.

For this purpose, a well-established religious objection means that the individual:

(1) Is a member of a recognized religious sect or division of the sect; and

(2) Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

75.7(3) If a social security number has not been issued or is not known, the individual seeking Medicaid must cooperate with the department in applying for a social security number with the Social Security Administration or in requesting the Social Security Administration to furnish the number.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.8(249A) Medical assistance corrective payments. If a decision by the department or the Social Security Administration following an appeal on a denied application for any of the categories of medical assistance eligibility set forth in rule 441—75.1(249A) is favorable to the claimant, reimbursement will be made to the claimant for any medical bills paid by the claimant during the period between the date of the denial on the initial application and the date regular medical assistance coverage began when the bills were for medical services rendered in the period now determined to be an eligible period based on the following conditions:

75.8(1) These bills must be for services covered by the medical assistance program as set forth in 441—Chapter 78.

75.8(2) Reimbursement will be based on Medicaid rates for services in effect at the time the services were provided.

75.8(3) If a county relief agency has paid medical bills on the recipient's behalf and has not received reimbursement through assignment as set forth in 441—Chapter 80, the department will reimburse the county relief agency directly on the same basis as if the reimbursement was made to the recipient.

75.8(4) Recipients and county relief agencies shall file claims for payment under this subrule by submitting Form 470-2224, Verification of Paid Medical Bills, to the department. A supply of these forms is available from the county office. All requests for reimbursement shall be acted upon within 60 days of receipt of all Forms 470-2224 in the county office.

75.8(5) Any adverse action taken by the department with respect to an application for reimbursement is appealable under 441—Chapter 7.

This rule is intended to implement Iowa Code section 249A.4.

441—75.9(249A) Treatment of Medicaid qualifying trusts.

75.9(1) A Medicaid qualifying trust is a trust or similar legal device established, on or before August 10, 1993, other than by will by a person or that person's spouse under which the person may be the beneficiary of payments from the trust and the distribution of these payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the person. Trusts or initial trust decrees established prior to April 7, 1986, solely for the benefit of a mentally retarded person who resides in an intermediate care facility for the mentally retarded, are exempt.

75.9(2) The amount of income and principal from a Medicaid qualifying trust that shall be considered available shall be the maximum amount that may be permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees for the distribution of the funds.

a. Trust income considered available shall be counted as income.

b. Trust principal (including accumulated income) considered available shall be counted as a resource, except where the trust explicitly limits the amount of principal that can be made available on an annual or less frequent basis. Where the trust limits the amount, the principal considered available over any particular period of time shall be counted as income for that period of time.

c. To the extent that the trust principal and income is available only for medical care, this principal or income shall not be used to determine eligibility. To the extent that the trust is restricted to medical expenses, it shall be used as a third party resource.

This rule is intended to implement Iowa Code section 249A.4.

441—75.10(249A) Residency requirements. Residency in Iowa is a condition of eligibility for medical assistance.

75.10(1) Definitions.

a. Institutions. For purposes of this rule, “institution” means an “institution” or a “medical institution” as those terms are defined in 42 CFR § 435.1010 as amended to July 13, 2007. For purposes of state placement, “institution” also includes foster care homes licensed as set forth in 45 CFR § 1355.20 as amended to January 6, 2012, and providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

b. Incapable of expressing intent regarding residency. For purposes of this rule, an individual is considered to be “incapable of indicating intent regarding residency” if the individual:

1. Has an IQ of 49 or less or has a mental age of seven or less;
2. Has been judged legally incompetent; or
3. Has been determined to be incapable of indicating intent regarding residency by a physician, psychologist or other person licensed by the state in the field of intellectual disability.

75.10(2) Determination of residency. State residency is determined according to the following criteria. If more than one criterion applies, the applicable criterion listed first determines the individual's residency:

a. Cases of disputed residency. If two or more states do not agree on an individual's state of residence, the state where the individual is physically located is the state of residence.

b. Temporary absence from state of residence. An individual who was a resident of a state pursuant to the other criteria of this rule, who is temporarily absent from that state, and who intends to return to

that state when the purpose of the absence has been accomplished remains a resident of that state during the absence, unless another state has determined that the person is a resident there for Medicaid purposes.

c. Individuals placed by a state in an out-of-state institution. If any agency of a state, including an entity recognized under state law as being under contract with the state for such purposes, arranges for an individual to be placed in an institution located in another state, the state arranging or actually making the placement is considered the individual's state of residence during that placement.

(1) Any action beyond providing information to the individual and the individual's family constitutes arranging or making a placement. However, the following actions do not constitute arranging or making a placement:

1. Providing basic information to individuals about another state's Medicaid program and information about the availability of health care services and facilities in another state.

2. Assisting an individual in locating an institution in another state, provided the individual is not incapable of indicating intent regarding residency and independently decides to move.

(2) When a competent individual leaves an out-of-state institution in which the individual was placed by a state, that individual's state of residence is the state where the individual is physically located.

d. Individuals receiving a state supplementary assistance payment. Individuals who are receiving a state supplementary assistance payment pursuant to 42 U.S.C. § 1382e (including payments from Iowa pursuant to rules 441—50.1(249) through 441—54.8(249), 441—81.23(249A), 441—82.19(249A), 441—85.47(249A), or 441—177.1(249) through 441—177.11(249)) are considered to be residents of the state paying the supplementary assistance.

e. Individuals receiving Title IV-E payments. Individuals who are receiving federal foster care or adoption assistance payments for a child under Title IV-E of the Social Security Act are considered to be residents of the state where the child lives.

f. Individuals aged 21 and over who are residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and intends to reside.

g. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency before the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency before the age of 21, the state of residence is:

(1) That of the parent applying for Medicaid on the individual's behalf if the parents reside in separate states (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(3) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(4) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

h. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21, the state of residence is the state in which the individual is physically present.

i. Individuals aged 21 and over who are not residing in an institution and who are incapable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is incapable of indicating intent regarding residency, the state of residence is the state where the individual is living.

j. Individuals aged 21 and over who are not residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and either:

- (1) Intends to reside, with or without a fixed address; or
- (2) Entered with a job commitment or to seek employment, whether or not currently employed.

k. Individuals under the age of 21 who are residing in an institution and who are not married or emancipated. For an individual under the age of 21 who is residing in an institution and who is neither married nor emancipated, the state of residence is:

(1) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(3) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

l. Individuals under the age of 21 who are capable of indicating intent regarding residency and who are married or emancipated. For an individual under the age of 21 who is not incapable of indicating intent regarding residency and who is married or emancipated from the individual's parent, the state of residence is determined in accordance with paragraph 75.10(2) "j."

m. Other individuals under the age of 21. For an individual under the age of 21 who is not described in paragraph 75.10(2) "k" or "l," the state of residence is:

- (1) The state where the individual resides, with or without a fixed address; or
- (2) The state of residency of the parent or caretaker, determined in accordance with paragraph 75.10(2) "j," with whom the individual resides.

This rule is intended to implement Iowa Code section 249A.3.
[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.11(249A) Citizenship or alienage requirements.

75.11(1) Definitions.

"Care and services necessary for the treatment of an emergency medical condition" means services provided in a hospital, clinic, office or other facility that is equipped to furnish the required care for an emergency medical condition, provided the care and services are not related to an organ transplant procedure furnished on or after August 10, 1993. Payment for emergency medical services shall be limited to the day treatment is initiated for the emergency medical condition and the following two days.

"Emergency medical condition" means a medical condition of sudden onset (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in one or more of the following:

1. Placing the patient's health in serious jeopardy.
2. Serious impairment to bodily functions.
3. Serious dysfunction of any bodily organ or part.

"Federal means-tested program" means all federal programs that are means-tested with the exception of:

1. Medical assistance for care and services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure furnished on or after August 10, 1993.
2. Short-term, non-cash, in-kind emergency disaster relief.
3. Assistance or benefits under the National School Lunch Act.
4. Assistance or benefits under the Child Nutrition Act of 1966.

5. Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by a communicable disease.

6. Payments of foster care and adoption assistance under Parts B and E of Title IV of the Social Security Act for a parent or a child who would, in the absence of numbered paragraph "1," be eligible to have payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of the child is a qualified alien (as defined in Section 431).

7. Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the attorney general of the United States in the attorney general's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:

- Deliver in-kind services at the community level, including through public or private nonprofit agencies;

- Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

- Are necessary for the protection of life or safety.

8. Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965, and Titles III, VII, and VIII of the Public Health Services Act.

9. Means-tested programs under the Elementary and Secondary Education Act of 1965.

10. Benefits under the Head Start Act.

11. Benefits funded through an employment and training program of the U.S. Department of Labor.

"Qualified alien" means an alien:

1. Who is lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA);

2. Who is granted asylum in the United States under Section 208 of the INA;

3. Who is a refugee admitted to the United States under Section 207 of the INA;

4. Who is paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;

5. Whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA as amended to December 20, 2010;

6. Who is granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;

7. Who is an Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V);

8. Who is a Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7);

9. Who is a battered alien as described in 8 U.S.C. Section 1641(c);

10. Who is certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010;

11. Who is an American Indian born in Canada to whom Section 289 of the INA applies or is a member of a federally recognized Indian Tribe as defined in 25 U.S.C. Section 450b(e); or

12. Who is under the age of 21 and is lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).

"Qualifying quarters" includes all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under age 18 and all of the qualifying quarters worked by a spouse of the alien during their marriage if the alien remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

75.11(2) Citizenship and alienage.

a. To be eligible for Medicaid, a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified alien residing in the United States before August 22, 1996.

- (3) A qualified alien under the age of 21.
- (4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).
- (5) An alien who has been granted asylum under Section 208 of the INA.
- (6) An alien whose deportation is withheld under Section 243(h) or Section 241(b)(3) of the INA.
- (7) A qualified alien veteran who has an honorable discharge that is not due to alienage.
- (8) A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.
- (9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph (7) or (8), including a surviving spouse who has not remarried.
- (10) A qualified alien who has resided in the United States for a period of at least five years.
- (11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).
- (12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).
- (13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.
- (14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian Tribe as defined in 25 U.S.C. Section 450b(e).
- (15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. As a condition of eligibility, each member shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the member's citizenship or alien status. When the member is incompetent or deceased, the form shall be signed by someone acting responsibly on the member's behalf. An adult shall sign the form for dependent children.

(1) As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship or alien status by signing the application form which contains the same declaration.

(2) As a condition of continued eligibility, SSI-related Medicaid members not actually receiving SSI who have been continuous members since August 1, 1988, shall attest to their citizenship or alien status by signing the application form which contains a similar declaration at time of review.

(3) An attestation of citizenship or alien status completed on any one of the following forms shall meet the requirements of subrule 75.11(2) for children under the age of 19 who are otherwise eligible pursuant to 441—subrule 76.1(8):

1. Application for Food Assistance, Form 470-0306 or 470-0307 (Spanish);
2. Health and Financial Support Application, Form 470-0462 or 470-0462(S); or
3. Review/Recertification Eligibility Document, Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS).

c. Except as provided in paragraph "*f*," applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph "*b*" shall present satisfactory documentation of citizenship or nationality as defined in paragraph "*d*," "*e*," or "*i*." A reference to a form in paragraph "*d*" or "*e*" includes any successor form. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the "reasonable period" begins on the date a written request for documentation or a notice pursuant to subparagraph 75.11(2)"*i*"(2) is issued to an applicant or member, whichever is later, and continues for 90 days.

(2) Medicaid shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of Medicaid or HAWK-I benefits pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days under either program for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period except as required to protect the confidentiality of an individual

who received only limited Medicaid benefits provided pursuant to subrule 75.1(41) during the first period.

(3) Retroactive eligibility pursuant to 441—subrule 76.5(1) is available only after documentation of citizenship or nationality has been provided pursuant to paragraph “d,” “e,” or “i.” The retroactive months are outside the “reasonable period” during which Medicaid coverage may be provided without required documentation of citizenship or nationality.

d. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

(1) A United States passport.

(2) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.

(3) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.

(4) A valid state-issued driver’s license or other identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act, but only if the state issuing the license or document either:

1. Requires proof of United States citizenship before issuance of the license or document; or

2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian Tribe showing membership or enrollment in or affiliation with that Tribe.

(6) Another document that provides proof of United States citizenship or nationality and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v).

e. Satisfactory documentation of citizenship or nationality may also be demonstrated by the combination of:

(1) Any identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act or any other documentation of personal identity that provides a reliable means of identification, as the secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii), and

(2) Any one of the following:

1. A certificate of birth in the United States.

2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.

3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.

4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.

5. Another document that provides proof of United States citizenship or nationality, as the secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).

f. A person for whom an attestation of United States citizenship has been made pursuant to paragraph “b” is not required to present documentation of citizenship or nationality for Medicaid eligibility if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare).

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 223 or 202, based on disability (as defined in Section 223(d)).

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.

(4) The person is a child in foster care who is assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act.

(5) The person is receiving foster care maintenance or adoption assistance payments funded under Part E of Title IV of the federal Social Security Act.

(6) The person has previously presented satisfactory documentary evidence of citizenship or nationality, as specified by the United States Secretary of Health and Human Services.

(7) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) as the newborn of a Medicaid-eligible mother.

(8) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a State Children's Health Insurance Program (SCHIP) pursuant to Title XXI of the Social Security Act.

g. If no other identity documentation allowed by subparagraph 75.11(2)"e"(1) is available, identity may be documented by affidavit as described in this paragraph. However, affidavits cannot be used to document both identity and citizenship.

(1) For children under the age of 16, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by the child's parent, guardian, or caretaker relative under penalty of perjury.

(2) For disabled persons who live in a residential care facility, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by a residential care facility director or administrator under penalty of perjury.

h. If no other documentation that provides proof of United States citizenship or nationality allowed by subparagraph 75.11(2)"e"(2) is available, United States citizenship or nationality may be documented using Form 470-4373 or 470-4373(S), Affidavit of Citizenship. However, affidavits cannot be used to document both identity and citizenship.

(1) Two affidavits of citizenship are required. The person who signs the affidavit must provide proof of citizenship and identity. A person who is not related to the applicant or member must sign at least one of the affidavits.

(2) When affidavits of citizenship are used, Form 470-4374 or 470-4374(S), Affidavit Concerning Documentation of Citizenship, or an equivalent affidavit explaining why other evidence of citizenship does not exist or cannot be obtained must also be submitted and must be signed by the applicant or member or by another knowledgeable person (guardian or representative).

i. In lieu of a document listed in paragraph "d" or "e," satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

(1) Provision of an individual's name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual's citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual's citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration's records, or to provide other documentation of citizenship or nationality pursuant to paragraph "d" or "e."

75.11(3) Deeming of sponsor's income and resources.

a. When an alien admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income and resources of the alien shall be deemed to include the income and resources of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount deemed to the sponsored alien shall be the total gross countable income and resources of the sponsor and the sponsor's spouse for the FMAP-related or SSI-related coverage group applicable to the sponsored alien's household as described in 441—75.13(249A) less the following deductions:

(1) For FMAP-related coverage groups: The same income deductions, diversions, and disregards allowed for stepparent cases as described at 75.57(8)"b" and a \$1,500 resource deduction.

(2) For SSI-related coverage groups: The deductions described at 20 CFR 416.1166a and 416.1204, as amended to April 1, 2010.

b. An indigent alien is exempt from the deeming of a sponsor's income and resources for 12 months after indigence is determined. An alien shall be considered indigent if the following are true:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income and resources for 12 months.

d. Deeming of the sponsor's income and resources does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title II of the Immigration and Nationality Act.

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at subrule 75.11(1).

(3) The sponsored alien or the sponsor dies.

(4) The sponsored alien is a child under age 21.

(5) For SSI-related Medicaid, the sponsored alien becomes blind or disabled as defined under Title XVI of the Social Security Act after admission to the United States as a lawful permanent resident.

(6) For SSI-related Medicaid, three years after the date the sponsored alien was admitted to the United States as a lawful permanent resident.

75.11(4) Eligibility for payment of emergency medical services. Aliens who do not meet the provisions of subrule 75.11(2) and who would otherwise qualify except for their alien status are eligible to receive Medicaid for care and services necessary for the treatment of an emergency medical condition as defined in subrule 75.11(1). To qualify for payment under this provision:

a. The alien must meet all other eligibility criteria, including state residence requirements provided at rules 441—75.10(249A) and 441—75.53(249A), with the exception of rule 441—75.7(249A) and subrules 75.11(2) and 75.11(3).

b. The medical provider who treated the emergency medical condition or the provider's designee must submit verification of the existence of the emergency medical condition on either:

(1) Form 470-4299, Verification of Emergency Health Care Services; or

(2) A signed statement that contains the same information as requested by Form 470-4299.

This rule is intended to implement Iowa Code section 249A.3.

[ARC 7932B, IAB 7/1/09, effective 7/1/09; ARC 8096B, IAB 9/9/09, effective 10/14/09; ARC 8642B, IAB 4/7/10, effective 6/1/10; ARC 8786B, IAB 6/2/10, effective 6/1/10; ARC 9439B, IAB 4/6/11, effective 6/1/11]

441—75.12(249A) Inmates of public institutions. A person is not eligible for medical assistance for any care or services received while the person is an inmate of a public institution. For the purpose of this rule, "inmate of a public institution" and "public institution" are defined by 42 CFR Section 435.1010 as amended to August 25, 2011.

75.12(1) Suspension. Medical assistance shall be suspended, rather than canceled, for the first 12 continuous calendar months that a person is an inmate of a public institution if all of the following conditions are met:

a. The department is notified of the person's entry into the public institution through either:

(1) A monthly report which is provided to the department by the public institution and includes the person's name, date of birth, and social security number and the date the person entered the institution;

or

(2) Other verified notice received by the department.

b. The person has entered a public institution on or after January 1, 2012, and has been in the public institution for 30 days or more.

c. On the date of entry into the public institution, the person was a Medicaid member.

d. The person is eligible for medical assistance as an individual except for institutional status.

75.12(2) Coverage during suspension. While medical assistance is suspended, payment will be made only for services received while the person is not an inmate of a public institution.

75.12(3) Reinstatement. The Medicaid case for an inmate who is released from a public institution while Medicaid is suspended will be reopened without an application if both of the following conditions are met:

a. The department is notified of the person's release from the public institution through either:

(1) A monthly report which is provided to the department by the public institution and includes the person's name, date of birth, and social security number and the date the person was released from the institution; or

(2) Other verified notice received by the department.

b. All information available to the department indicates that the person is currently eligible for Iowa Medicaid as an individual.

This rule is intended to implement Iowa Code section 249A.3 and 2011 Iowa Acts, Senate File 482, division IX.

[ARC 9957B, IAB 1/11/12, effective 1/1/12]

441—75.13(249A) Categorical relatedness.

75.13(1) FMAP-related Medicaid eligibility. Medicaid eligibility for persons who are under the age of 21, pregnant women, or specified relatives of dependent children who are not blind or disabled shall be determined using the income criteria in effect for the family medical assistance program (FMAP) as provided in subrule 75.1(14) unless otherwise specified. Income shall be considered prospectively.

75.13(2) SSI-related Medicaid. Except as otherwise provided in 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the Supplemental Security Income (SSI) program administered by the United States Social Security Administration.

a. SSI policy reference. The statutes, regulations, and policy governing eligibility for SSI are found in Title XVI of the Social Security Act (42 U.S.C. Sections 1381 to 1383f), in the federal regulations promulgated pursuant to Title XVI (20 CFR 416.101 to 416.2227), and in Part 5 of the Program Operations Manual System published by the United States Social Security Administration. The Program Operations Manual System is available at Social Security Administration offices in Ames, Burlington, Carroll, Cedar Rapids, Clinton, Council Bluffs, Creston, Davenport, Decorah, Des Moines, Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City, Oskaloosa, Ottumwa, Sioux City, Spencer, Storm Lake, and Waterloo, or through the Department of Human Services, Division of Financial, Health, and Work Supports, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

b. Income considered. For SSI-related Medicaid eligibility purposes, income shall be considered prospectively.

c. Trust contributions. Income that a person contributes to a trust as specified at 75.24(3)“b” shall not be considered for purposes of determining eligibility for SSI-related Medicaid.

d. Conditional eligibility. For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources, found at 20 CFR 416.1240 to 416.1245, is not considered an eligibility methodology.

e. Valuation of life estates and remainder interests. In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the life estate holder or other person whose life controls the life estate.

If a Medicaid applicant or recipient disputes the value determined using the following table, the applicant or recipient may submit other evidence and the value of the life estate or remainder interest shall be determined based on the preponderance of all the evidence submitted to or obtained by the department, including the value given by the following table.

Age	Life Estate	Remainder	Age	Life Estate	Remainder	Age	Life Estate	Remainder
0	.97188	.02812	37	.93026	.06974	74	.53862	.46138
1	.98988	.01012	38	.92567	.07433	75	.52149	.47851
2	.99017	.00983	39	.92083	.07917	76	.51441	.49559
3	.99008	.00992	40	.91571	.08429	77	.48742	.51258
4	.98981	.01019	41	.91030	.08970	78	.47049	.52951
5	.98938	.01062	42	.90457	.09543	79	.45357	.54643
6	.98884	.01116	43	.89855	.10145	80	.43569	.56341
7	.98822	.01178	44	.89221	.10779	81	.41967	.58033
8	.98748	.01252	45	.88558	.11442	82	.40295	.59705
9	.98663	.01337	46	.87863	.12137	83	.38642	.61358
10	.98565	.01435	47	.87137	.12863	84	.36998	.63002
11	.98453	.01547	48	.86374	.13626	85	.35359	.64641
12	.98329	.01671	49	.85578	.14422	86	.33764	.66236
13	.98198	.01802	50	.84743	.15257	87	.32262	.67738
14	.98066	.01934	51	.83674	.16126	88	.30859	.69141
15	.97937	.02063	52	.82969	.17031	89	.29526	.70474
16	.97815	.02185	53	.82028	.17972	90	.28221	.71779
17	.97700	.02300	54	.81054	.18946	91	.26955	.73045
18	.97590	.02410	55	.80046	.19954	92	.25771	.74229
19	.97480	.02520	56	.79006	.20994	93	.24692	.75308
20	.97365	.02635	57	.77931	.22069	94	.23728	.76272
21	.97245	.02755	58	.76822	.23178	95	.22887	.77113
22	.97120	.02880	59	.75675	.24325	96	.22181	.77819
23	.96986	.03014	60	.74491	.25509	97	.21550	.78450
24	.96841	.03159	61	.73267	.26733	98	.21000	.79000
25	.96678	.03322	62	.72002	.27998	99	.20486	.79514
26	.96495	.03505	63	.70696	.29304	100	.19975	.80025
27	.96290	.03710	64	.69352	.30648	101	.19532	.80468
28	.96062	.03938	65	.67970	.32030	102	.19054	.80946
29	.95813	.04187	66	.66551	.33449	103	.18437	.81563
30	.95543	.04457	67	.65098	.343902	104	.17856	.82144
31	.95254	.04746	68	.63610	.363690	105	.16962	.83038
32	.94942	.05058	69	.62086	.37914	106	.15488	.84512
33	.94608	.05392	70	.60522	.39478	107	.13409	.86591
34	.94250	.05750	71	.58914	.41086	108	.10068	.89932
35	.93868	.06132	72	.57261	.42739	109	.04545	.95455
36	.93460	.06540	73	.55571	.44429			

75.13(3) *Resource eligibility for SSI-related Medicaid for children.* Resources of all household members shall be disregarded when determining eligibility for children under any SSI-related coverage group except for those groups at subrules 75.1(3), 75.1(4), 75.1(6), 75.1(9), 75.1(10), 75.1(12), 75.1(13), 75.1(23), 75.1(25), 75.1(29), 75.1(33), 75.1(34), 75.1(36), 75.1(37), and 75.1(38).

This rule is intended to implement Iowa Code section 249A.3.

441—75.14(249A) Establishing paternity and obtaining support.

75.14(1) As a condition of eligibility, adult Medicaid applicants and members in households with an absent parent shall cooperate in obtaining medical support for themselves and for any other person in the household for whom Medicaid is requested and for whom the applicant or member can legally assign rights for medical support, except when the applicant or member has good cause for refusal to cooperate as defined in subrule 75.14(8).

a. The adult applicant or member shall cooperate in the following:

- (1) Identifying and locating the parent of the child for whom Medicaid is requested.
- (2) Establishing the paternity of a child born out of wedlock for whom Medicaid is requested.
- (3) Obtaining medical support and payments for medical care for the applicant or member and for a child for whom Medicaid is requested.
- (4) Rescinded IAB 2/3/93, effective 4/1/93.

b. Cooperation is defined as including the following actions by the adult applicant or member upon request:

(1) Appearing at the income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or member that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

c. Upon request, the adult applicant or member shall cooperate with the department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. Upon request, the adult applicant or member shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. The child support recovery unit shall make the determination of whether or not the adult applicant or member has cooperated for the purposes of this rule.

75.14(2) Failure of an adult applicant or member to cooperate shall result in denial or cancellation of the noncooperating adult's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.

75.14(3) Each Medicaid applicant or member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(8) to 75.14(12) shall be used when making a determination of the existence of good cause.

75.14(4) Each Medicaid applicant or member shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the applicant's or member's own behalf or on behalf of any other family member for whom the applicant or member is applying. An assignment is effective the same date the eligibility information is entered into the automated benefit calculation system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Rescinded IAB 6/2/10, effective 8/1/10.

75.14(6) Pregnant women establishing eligibility under the mothers and children (MAC) coverage group as provided at subrule 75.1(28) shall be exempt from the provisions in this rule for any born child for whom the pregnant woman applies for or receives Medicaid. Additionally, any previously pregnant woman eligible for postpartum coverage under the provision of subrule 75.1(24) shall not be subject to the provisions in this rule until after the end of the month in which the 60-day postpartum period expires. Pregnant women establishing eligibility under any other coverage groups except those set forth in subrule

75.1(24) or 75.1(28) shall be subject to the provisions in this rule when establishing eligibility for born children. However, when a pregnant woman who is subject to these provisions fails to cooperate, the woman shall lose eligibility under her current coverage group and her eligibility for Medicaid shall be automatically redetermined under subrule 75.1(28).

75.14(7) Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) that require an adult applicant or member to assign any rights to medical support and payments for medical care.

75.14(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The income maintenance unit shall determine that cooperation is against the child's best interest when the applicant's or member's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

- (1) Physical or emotional harm to the child for whom support is to be sought; or
- (2) Physical or emotional harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately.
- (3) Physical harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately; or
- (4) Emotional harm to the parent or specified relative with whom the child is living of a nature or degree that it reduces the person's capacity to care for the child adequately.

b. The income maintenance unit shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the income maintenance unit believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

- (1) The child was conceived as the result of incest or forcible rape.
- (2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (3) The applicant or member is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the specified relative, the following shall be considered:

- (1) The present emotional state of the individual subject to emotional harm.
- (2) The emotional health history of the individual subject to emotional harm.
- (3) Intensity and probable duration of the emotional impairment.
- (4) The degree of cooperation required.
- (5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

75.14(9) Claiming good cause. Each Medicaid applicant or member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. Before requiring cooperation, the department shall notify the applicant or member using Form 470-0169 or 470-0169(S), Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination.

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

- (1) Advise the applicant or member of the potential benefits the child may derive from the establishment of paternity and securing support.

(2) Advise the applicant or member that by law cooperation in establishing paternity and securing support is a condition of eligibility for the Medicaid program.

(3) Advise the applicant or member of the sanctions provided for refusal to cooperate without good cause.

(4) Advise the applicant or member that good cause for refusal to cooperate may be claimed and that if the income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or member will be excused from the cooperation requirement.

(5) Advise the applicant or member that upon request, or following a claim of good cause, the income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or member makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. To claim good cause, the applicant or member shall sign and date Form 470-0170 and return it to the income maintenance unit. This form:

(1) Indicates that the applicant or member must provide corroborative evidence of good cause circumstance and must, when requested, furnish sufficient information to permit the county office to investigate the circumstances.

(2) Informs the applicant or member that, upon request, the income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or member that on the basis of the corroborative evidence supplied and the agency's investigation when necessary, the income maintenance unit shall determine whether cooperation would be against the best interests of the child for whom support would be sought.

(4) Lists the circumstances under which cooperation may be determined to be against the best interests of the child.

(5) Informs the applicant or member that the child support recovery unit may review the income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or member that the child support recovery unit may attempt to establish paternity and collect support in those cases where the income maintenance unit determines that this can be done without risk to the applicant or member if done without the applicant's or member's participation.

d. The applicant or member who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the income maintenance unit to determine that good cause does not exist. The applicant or member shall:

(1) Specify the circumstances that the applicant or member believes provide sufficient good cause for not cooperating.

(2) Corroborate the good cause circumstances.

(3) When requested, provide sufficient information to permit an investigation.

75.14(10) Determination of good cause. The income maintenance unit shall determine whether good cause exists for each Medicaid applicant or member who claims to have good cause.

a. The income maintenance unit shall notify the applicant or member of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the income maintenance unit's findings and basis for determination.

(3) Be entered in the case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The income maintenance unit may exceed this time standard only when:

(1) The case record documents that the income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) The case record documents that the claimant did not provide corroborative evidence within the time period set forth in subrule 75.14(11).

c. When the income maintenance unit determines that good cause does not exist:

(1) The applicant or member shall be so notified and be afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in the loss of Medicaid for the person who refuses to cooperate.

d. The income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or member only after the income maintenance unit has examined the evidence and found that it actually verifies the good cause claim.

e. Before making a final determination of good cause for refusing to cooperate, the income maintenance unit shall:

(1) Afford the child support recovery unit the opportunity to review and comment on the findings and basis for the proposed determination, and

(2) Consider any recommendation from the child support recovery unit.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or member's appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or member has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The income maintenance unit shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements pertaining to cooperation in establishing paternity and securing support.

75.14(11) Proof of good cause. The applicant or member who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the income maintenance unit determines that the applicant or member requires additional time because of the difficulty in obtaining the corroborative evidence, the income maintenance unit shall allow a reasonable additional period upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or specified relative.

(4) Medical records which indicate emotional health history and present emotional health status of the specified relative or the children for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the specified relative or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the applicant or member is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or member with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or member, the income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the income maintenance unit shall:

(1) Promptly notify the applicant or member that additional corroborative evidence is needed, and

(2) Specify the type of document which is needed.

c. When the applicant or member requests assistance in securing evidence, the income maintenance unit shall:

- (1) Advise the applicant or member how to obtain the necessary documents, and
- (2) Make a reasonable effort to obtain any specific documents which the applicant or member is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or member's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

- (1) The income maintenance unit shall investigate the good cause claim when the office believes that the claim is credible without corroborative evidence and corroborative evidence is not available.
- (2) Good cause shall be found when the claimant's statement and investigation which is conducted satisfies the county office that the applicant or member has good cause for refusing to cooperate.
- (3) A determination that good cause exists shall be reviewed and approved or disapproved by the worker's immediate supervisor and the findings shall be recorded in the case record.

e. The income maintenance unit may further verify the good cause claim when the applicant's or member's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the income maintenance unit determines that it is necessary, the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the income maintenance unit shall:

- (1) Contact the absent parent or putative father from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.
- (2) Before making the necessary contact, notify the applicant or member so the applicant or member may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

75.14(12) Enforcement without specified relative's cooperation. When the income maintenance unit makes a determination that good cause exists, the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or specified relative when the enforcement or collection activities do not involve their participation.

a. The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination and the income maintenance unit shall consider any recommendations from the child support recovery unit.

b. The determination shall be in writing, contain the income maintenance unit's findings and basis for the determination, and be entered into the case record.

c. When the income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, the income maintenance unit shall notify the applicant or member to enable the individual to withdraw the application for assistance or have the case closed.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.15(249A) Disqualification for long-term care assistance due to substantial home equity. Notwithstanding any other provision of this chapter, if an individual's equity interest in the individual's home exceeds \$500,000, the individual shall not be eligible for medical assistance with respect to nursing facility services or other long-term care services except as provided in 75.15(2). This provision is effective for all applications or requests for payment of long-term care services filed on or after January 1, 2006.

75.15(1) The limit on the equity interest in the individual's home for purposes of this rule shall be increased from year to year, beginning with 2011, based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000.

75.15(2) Disqualification based on equity interest in the individual's home shall not apply when one of the following persons is lawfully residing in the home:

- a. The individual's spouse; or

b. The individual's child who is under age 21 or is blind or disabled as defined in Section 1614 of the federal Social Security Act.

This rule is intended to implement Iowa Code section 249A.4.

441—75.16(249A) Client participation in payment for medical institution care. Medicaid clients are required to participate in the cost of medical institution care. However, no client participation is charged when the combination of Medicare payments and the Medicaid benefits available to qualified Medicare beneficiaries covers the cost of institutional care.

75.16(1) Income considered in determining client participation. The department determines the amount of client participation based on the client's total monthly income, with the following exceptions:

a. *FMAP-related clients.* The income of a client and family whose eligibility is FMAP-related is not available for client participation when both of the following conditions exist:

- (1) The client has a parent or child at home.
- (2) The family's income is considered together in determining eligibility.

b. *SSI-related clients who are employed.* If a client receives SSI and is substantially gainfully employed, as determined by the Social Security Administration, the client shall have the SSI and any mandatory state supplementary assistance payment exempt from client participation for the two full months after entry to a medical institution.

c. *SSI-related clients returning home within three months.* If the Social Security Administration continues a client's SSI or federally administered state supplementary assistance payments for three months because it is expected that the client will return home within three months, these payments shall be exempt from client participation.

d. *Married couples.*

(1) Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income shall be considered in determining client participation.

(2) Both spouses institutionalized. Client participation for each partner in a marriage shall be based on one-half of the couple's combined income when the partners are considered together for eligibility. Client participation for each partner who is considered individually for eligibility shall be determined individually from each person's income.

(3) Rescinded, IAB 7/11/90, effective 7/1/90.

e. *State supplementary assistance recipients.* The amount of client participation that a client paid under the state supplementary assistance program is not available for Medicaid client participation in the month of the client's entry to a medical institution.

f. *Foster care recipients.* The amount of income paid for foster care for the days that a child is in foster care in the same month as entry to a medical institution is not available for client participation.

g. *Clients receiving a VA pension.* The amount of \$90 of veteran's pension income shall be exempt from client participation if the client is a veteran or a surviving spouse of a veteran who:

- (1) Receives a reduced pension pursuant to 38 U.S.C. Section 5503(d)(2), or
- (2) Resides at the Iowa Veterans Home and does not have a spouse or minor child.

75.16(2) Allowable deductions from income. In determining the amount of client participation, the department allows the following deductions from the client's income, taken in the order they appear:

a. *Ongoing personal needs allowance.* All clients shall retain \$50 of their monthly income for a personal needs allowance. (See rules 441—81.23(249A), 441—82.19(249A), and 441—85.47(249A) regarding potential state-funded personal needs supplements.)

(1) If the client has a trust described in Section 1917(d)(4) of the Social Security Act (including medical assistance income trusts and special needs trusts), a reasonable amount paid or set aside for necessary expenses of the trust is added to the personal needs allowance. This amount shall not exceed \$10 per month except with court approval.

(2) If the client has earned income, an additional \$65 is added to the ongoing personal needs allowance from the earned income only.

(3) Rescinded IAB 7/4/07, effective 7/1/07.

b. *Personal needs in the month of entry.*

(1) Single person. A single person shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a single person.

(2) Spouses entering institutions together and living together. Partners in a marriage who enter a medical institution in the same month and live in the same room shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a couple.

(3) Spouses entering an institution together but living apart. Partners in a marriage who enter a medical institution during the same month and who are considered separately for eligibility shall each be given an allowance for stated home living expenses during the month of entry, up to one-half of the amount of the SSI benefit for a married couple. However, if the income of one spouse is less than one-half of the SSI benefit for a couple, the remainder of the allowance shall be given to the other spouse. If the couple's eligibility is determined together, an allowance for stated home living expenses shall be given to them during the month of entry up to the SSI benefit for a married couple.

(4) Community spouse enters a medical institution. When the second member of a married couple enters a medical institution in a later month, that spouse shall be given an allowance for stated expenses during the month of entry, up to the amount of the SSI benefit for one person.

c. Personal needs in the month of discharge. The client shall be allowed a deduction for home living expenses in the month of discharge. The amount of the deduction shall be the SSI benefit for one person (or for a couple, if both members are discharged in the same month). This deduction does not apply when a spouse is at home.

d. Maintenance needs of spouse and other dependents.

(1) Persons covered. An ongoing allowance shall be given for the maintenance needs of a community spouse. The allowance is limited to the extent that income of the institutionalized spouse is made available to or for the benefit of the community spouse. If there are minor or dependent children, dependent parents, or dependent siblings of either spouse who live with the community spouse, an ongoing allowance shall also be given to meet their needs.

(2) Income considered. The verified gross income of the spouse and dependents shall be considered in determining maintenance needs. The gross income of the spouse and dependent shall include all monthly earned and unearned income and assistance from the family investment program (FIP), supplemental security income (SSI), and state supplementary assistance (SSA). It shall also include the proceeds of any annuity or contract for sale of real property. Otherwise, the income shall be considered as the SSI program considers income. In addition, the spouse and dependents shall be required to apply for every income benefit for which they are eligible except that they shall not be required to accept SSI, FIP or SSA in lieu of the maintenance needs allowance. Failure to apply for all benefits shall mean reduction of the maintenance needs allowance by the amount of the anticipated income from the source not applied for.

(3) Needs of spouse. The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from the maximum amount allowed as a minimum monthly maintenance needs allowance for the community spouse by Section 1924(d)(3)(C) of the Social Security Act (42 U.S.C. § 1396r-5(d)(3)(C)). (This amount is indexed for inflation annually according to the consumer price index.)

However, if either spouse has established through the appeal process that the community spouse needs income above the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance shall not be less than this amount.

(4) Needs of other dependents. The maintenance needs of the other dependents shall be established by subtracting each person's gross income from 133 percent of the monthly federal poverty level for a family of two and dividing the result by three. (Effective July 1, 1992, the percent shall be 150 percent.)

e. Maintenance needs of children (without spouse). When the client has children under 21 at home, an ongoing allowance shall be given to meet the children's maintenance needs.

The income of the children is considered in determining maintenance needs. The children's countable income shall be their gross income less the disregards allowed in the FIP program.

The children's maintenance needs shall be determined by subtracting the children's countable income from the FIP payment standard for that number of children. (However, if the children receive FIP, no deduction is allowed for their maintenance needs.)

f. Client's medical expenses. A deduction shall be allowed for the client's incurred expenses for medical or remedial care that are not subject to payment by a third party and were not incurred for long-term care services during the imposition of a transfer of assets penalty period pursuant to rule 441—75.23(249A). This includes Medicare premiums and other health insurance premiums, deductibles or coinsurance, and necessary medical or remedial care recognized under state law but not covered under the state Medicaid plan.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 8444B, IAB 1/13/10, effective 3/1/10]

441—75.17(249A) Verification of pregnancy. For the purpose of establishing Medicaid eligibility for pregnant women under this chapter, the applicant's self-declaration of the pregnancy and the date of conception shall serve as verification of pregnancy, unless questionable.

75.17(1) Multiple pregnancy. If the pregnant woman claims to be carrying more than one fetus, a medical professional who has examined the woman must verify the number of fetuses in order for more than one to be considered in the household size.

75.17(2) Cost of examination. When an examination is required and other medical resources are not available to meet the expense of the examination, the provider shall be authorized to make the examination and submit the claim for payment.

This rule is intended to implement Iowa Code section 249A.3.

441—75.18(249A) Continuous eligibility for pregnant women. A pregnant woman who applies for Medicaid prior to the end of her pregnancy and subsequently establishes initial Medicaid eligibility under the provisions of this chapter shall remain continuously eligible throughout the pregnancy and the 60-day postpartum period, as provided in subrule 75.1(24), regardless of any changes in family income.

This rule is intended to implement Iowa Code section 249A.3.

441—75.19(249A) Continuous eligibility for children. A child under the age of 19 who is determined eligible for ongoing Medicaid shall retain that eligibility for up to 12 months regardless of changes in family circumstances except as described in this rule.

75.19(1) Exceptions to coverage. This rule does not apply to the following children:

a. Children whose eligibility was determined under the newborn coverage group described at subrule 75.1(20).

b. Children whose eligibility was determined under the medically needy coverage group described at subrule 75.1(35).

c. Children whose medical assistance is state-funded only.

d. Children who are eligible only in a retroactive month.

e. Children whose citizenship is not verified within the "reasonable period" described at paragraph 75.11(2)"c."

75.19(2) Duration of coverage. Coverage under this rule shall extend through the earliest of the following months:

a. The month of the household's annual eligibility review;

b. The month when the child reaches the age of 19; or

c. The month when the child moves out of Iowa.

75.19(3) Assignment of review date. Children entering an existing Medicaid household shall be assigned the same annual eligibility review date as that established for the household.

This rule is intended to implement Iowa Code Supplement section 249A.3 as amended by 2008 Iowa Acts, House File 2539.

[ARC 8786B, IAB 6/2/10, effective 6/1/10]

441—75.20(249A) Disability requirements for SSI-related Medicaid.

75.20(1) *Applicants receiving federal benefits.* An applicant receiving supplemental security income on the basis of disability, social security disability benefits under Title II of the Social Security Act, or railroad retirement benefits based on the Social Security law definition of disability by the Railroad Retirement Board, shall be deemed disabled without further determination of disability.

75.20(2) *Applicants not receiving federal benefits.* When disability has not been established based on the receipt of social security disability or railroad retirement benefits based on the same disability criteria as used by the Social Security Administration, the department shall determine eligibility for SSI-related Medicaid based on disability as follows:

a. A Social Security Administration (SSA) disability determination under either a social security disability (Title II) application or a supplemental security income application is binding on the department until changed by SSA unless the applicant meets one of the following criteria:

(1) The applicant alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(2) The applicant alleges more than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination and alleges a new period of disability which meets the durational requirements, and has not applied to SSA for a determination with respect to these allegations.

(3) The applicant alleges less than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the durational requirements, and:

1. The applicant has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations, or

2. The applicant no longer meets the nondisability requirements for SSI but may meet the department's nondisability requirements for Medicaid eligibility.

b. When there is no binding SSA decision and the department is required to establish eligibility for SSI-related Medicaid based on disability, initial determinations shall be made by disability determination services, a bureau of the Iowa department of education under the division of vocational rehabilitation services. The applicant or the applicant's authorized representative shall complete and submit Form 470-4459 or 470-4459(S), Authorization to Disclose Information to the Department of Human Services, and either:

(1) Form 470-2465, Disability Report for Adults, if the applicant is aged 18 or over; or

(2) Form 470-3912, Disability Report for Children, if the applicant is under the age of 18.

c. When an SSA decision on disability is pending when the person applies for Medicaid or when the person applies for either Title II benefits or SSI within ten working days of the Medicaid application, the department shall stay a decision on disability pending the SSA decision on disability.

75.20(3) *Time frames for decisions.* Determination of eligibility based on disability shall be completed within 90 days unless the applicant or an examining physician delays or fails to take a required action, or there is an administrative or other emergency beyond the department's or applicant's control.

75.20(4) *Reviews of disability.* In connection with any independent determination of disability, the department will determine whether reexamination of the member's disability will be required for periodic eligibility reviews. When a disability review is required, the member or the member's authorized representative shall complete and submit the same forms as required in paragraph 75.20(2) "b."

75.20(5) *Members whose disability was determined by the department.* When a Medicaid member has been approved for Medicaid based on disability determined by the department and later is determined by SSA not to be disabled for SSI, the member shall continue to be considered disabled for Medicaid eligibility purposes for 65 days from the date of the SSA denial. If at the end of the 65 days there is no appeal to the SSA, Medicaid shall be canceled with timely notice. If there is an appeal within 65 days, the member shall continue to be considered disabled for Medicaid eligibility purposes until a final SSA decision.

75.20(6) Disability redeterminations for members who attain age 18. If a member is eligible based on an independent determination of disability made under the standards applicable to persons under 18 years of age, the department shall redetermine the member's disability after the member attains the age of 18 years. The member's disability shall be redetermined:

- a. Using the standards applicable to persons who are 18 years of age or older, and
- b. Regardless of whether a review of the member's disability would otherwise be due.

This rule is intended to implement Iowa Code section 249A.4.
[ARC 9044B, IAB 9/8/10, effective 11/1/10]

441—75.21(249A) Health insurance premium payment (HIPP) program. Under the health insurance premium payment program, the department shall pay for the cost of premiums, coinsurance and deductibles for Medicaid-eligible individuals when the department determines that those costs will be less than the cost of paying for the individual's care through Medicaid. Payment shall include only the cost to the Medicaid member or household.

75.21(1) Condition of eligibility for group plans. The Medicaid member or a person acting on the member's behalf shall cooperate in providing information necessary for the department to establish availability and the cost-effectiveness of a group health plan. When the department has determined that a group health plan is cost-effective, enrollment in the plan is a condition of Medicaid eligibility unless it can be established that insurance is being maintained on the Medicaid members through another source (e.g., an absent parent is maintaining insurance on the Medicaid-eligible children).

a. When a parent fails to provide information necessary to determine availability and cost-effectiveness of a group health plan, fails to enroll in a group health plan that has been determined cost-effective, or disenrolls from a group health plan that has been determined cost-effective, Medicaid benefits of the parent shall be terminated unless good cause for failure to cooperate is established.

b. Good cause for failure to cooperate shall be established when the parent or family demonstrates one or more of the following conditions exist:

- (1) There was a serious illness or death of the parent or a member of the parent's family.
- (2) There was a family emergency or household disaster, such as a fire, flood, or tornado.
- (3) The parent offers a good cause beyond the parent's control.
- (4) There was a failure to receive the department's request for information or notification for a reason not attributable to the parent. Lack of a forwarding address is attributable to the parent.

c. Medicaid benefits of a child shall not be terminated due to the failure of the parent to cooperate. Additionally, the Medicaid benefits of a spouse who cannot enroll in the plan independently of the other spouse shall not be terminated due to the other spouse's failure to cooperate.

d. The presence of good cause does not relieve the parent of the requirement to cooperate. When necessary, the parent may be given additional time to cooperate when good cause is determined to exist.

75.21(2) Individual health plans. Participation in an individual health plan is not a condition of Medicaid eligibility. The department shall pay for the cost of premiums, coinsurance, and deductibles of individual health insurance plans for a Medicaid member if:

- a. A household member is currently enrolled in the plan; and
- b. The health plan is cost-effective as defined in subrule 75.21(3).

75.21(3) Cost-effectiveness. Cost-effectiveness for both group and individual health plans shall mean the expenditures in Medicaid payments for a set of services are likely to be greater than the cost of paying the premiums and cost-sharing obligations under the health plan for those services. When determining the cost-effectiveness of the health plan, the following data shall be considered:

a. The cost to the Medicaid member or household of the insurance premium, coinsurance, and deductibles. No cost paid by an employer or other plan sponsor shall be considered in the cost-effectiveness determination.

b. The scope of services covered under the health plan, including but not limited to exclusions for preexisting conditions.

c. The average anticipated Medicaid utilization, by age, sex, institutional status, Medicare eligibility, and coverage group, for members covered under the health plan.

d. The specific health-related circumstances of the members covered under the health plan. The HIPP Medical History Questionnaire, Form 470-2868, shall be used to obtain this information. When the information indicates any health conditions that could be expected to result in higher than average bills for any Medicaid member:

(1) If the member is currently covered by the health plan, the department shall obtain from the insurance company a summary of the member's paid claims for the previous 12 months. If there is sufficient evidence to indicate that such claims can be expected to continue in the next 12 months, the claims will be considered in determining the cost-effectiveness of the plan. The cost of providing the health insurance is compared to the actual claims to determine the cost-effectiveness of providing the coverage.

(2) If the member was not covered by the health plan in the previous 12 months, paid Medicaid claims may be used to project the cost-effectiveness of the plan.

e. Annual administrative expenditures of \$50 per Medicaid member covered under the health plan.

f. Whether the estimated savings to Medicaid for members covered under the health insurance plan are at least \$5 per month per household.

75.21(4) *Coverage of non-Medicaid-eligible family members.*

a. When a group health plan is determined to be cost-effective, the department shall pay for health insurance premiums for non-Medicaid-eligible family members if a non-Medicaid-eligible family member must be enrolled in the health plan in order to obtain coverage for the Medicaid-eligible family members. However:

(1) The needs of the non-Medicaid-eligible family members shall not be taken into consideration when determining cost-effectiveness, and

(2) Payments for deductibles, coinsurances or other cost-sharing obligations shall not be made on behalf of family members who are not Medicaid-eligible.

b. When an individual health plan is determined cost-effective, the department shall pay for the portion of the premium necessary to cover the Medicaid-eligible family members. If the portion of the premium to cover the Medicaid-eligible family members cannot be established, the department shall pay the entire premium. The family members who are not Medicaid-eligible shall not be considered when determining cost-effectiveness.

75.21(5) *Exceptions to payment.* Premiums shall not be paid for health insurance plans under any of the following circumstances:

a. The insurance plan is that of an absent parent.

b. The insurance plan is an indemnity policy which supplements the policyholder's income or pays only a predetermined amount for services covered under the policy (e.g., \$50 per day for hospital services instead of 80 percent of the charge).

c. The insurance plan is a school plan offered on basis of attendance or enrollment at the school.

d. The premium is used to meet a spenddown obligation under the medically needy program, as provided in subrule 75.1(35), when all persons in the household are eligible or potentially eligible only under the medically needy program. When some of the household members are eligible for full Medicaid benefits under coverage groups other than medically needy, the premium shall be paid if it is determined to be cost-effective when considering only the persons receiving full Medicaid coverage. In those cases, the premium shall not be allowed as a deduction to meet the spenddown obligation for those persons in the household participating in the medically needy program.

e. The insurance plan is designed to provide coverage only for a temporary period of time (e.g., 30 to 180 days).

f. The persons covered under the plan are not Medicaid-eligible on the date the decision regarding eligibility for the HIPP program is made. No retroactive payments shall be made if the case is not Medicaid-eligible on the date of decision.

g. The person is eligible only for a coverage group that does not provide full Medicaid services, such as the specified low-income Medicare beneficiary (SLMB) coverage group in accordance with subrule 75.1(34) or the IowaCare program in accordance with the provisions of 441—Chapter 92.

Members under the medically needy coverage group who must meet a spenddown are not eligible for HIPP payment.

h. Insurance coverage is being provided through the Health Insurance Plan of Iowa (HIPIOWA), in accordance with Iowa Code chapter 514E.

i. Insurance is being maintained on the Medicaid-eligible persons in the household through another source (e.g., an absent parent is maintaining insurance on the Medicaid-eligible children).

j. The insurance is a Medicare supplemental policy and the Health Insurance Premium Payment Application, Form 470-2875, was received on or after March 1, 1996.

k. The person has health coverage through Medicare. If other Medicaid members in the household are covered by the health plan, cost-effectiveness is determined without including the Medicare-covered member.

l. The health plan does not provide major medical coverage but pays only for specific situations (i.e., accident plans) or illnesses (i.e., cancer policy).

m. The health plan pays secondary to another plan.

n. The only Medicaid members covered by the health plan are currently in foster care.

o. All Medicaid members covered by the health plan are eligible for Medicaid only under subrule 75.1(43). This coverage group requires the parent to apply for, enroll in, and pay for coverage available from the employer as a condition of Medicaid eligibility for the children.

75.21(6) Duplicate policies. When more than one cost-effective health plan is available, the department shall pay the premium for only one plan. The member may choose the cost-effective plan in which to enroll.

75.21(7) Discontinuation of premium payments.

a. When the household loses Medicaid eligibility, premium payments shall be discontinued as of the month of Medicaid ineligibility.

b. When only part of the household loses Medicaid eligibility, the department shall complete a review in order to ascertain whether payment of the health insurance premium continues to be cost-effective. If the department determines that the health plan is no longer cost-effective, premium payment shall be discontinued pending timely and adequate notice.

c. If the household fails to cooperate in providing information necessary to establish ongoing eligibility, the department shall discontinue premium payment after timely and adequate notice. The department shall request all information in writing and allow the household ten calendar days in which to provide it.

d. If the policyholder leaves the Medicaid household, premium payments shall be discontinued pending timely and adequate notice.

e. If the health plan is no longer available or the policy has lapsed, premium payments shall be discontinued as of the effective date of the termination of the coverage.

75.21(8) Effective date of premium payment. The effective date of premium payments for a cost-effective health plan shall be determined as follows:

a. Premium payments shall begin no earlier than the later of:

(1) The first day of the month in which the Employer's Statement of Earnings, Form 470-2844, the Health Insurance Premium Payment Application, Form 470-2875, or the automated HIPP referral, Form H301-1, is received by the HIPP unit; or

(2) The first day of the first month in which the health plan is determined to be cost-effective.

b. If the person is not enrolled in the health plan when eligibility for participation in the HIPP program is established, premium payments shall begin in the month in which the first premium payment is due after enrollment occurs.

c. If there was a lapse in coverage during the application process (e.g., the health plan is dropped and reenrollment occurs at a later date), premium payments shall not be made for any period of time before the current effective date of coverage.

d. In no case shall payments be made for premiums that were used as a deduction to income when determining client participation or the amount of the spenddown obligation.

e. The Employer Verification of Insurance Coverage, Form 470-3036, shall be used to verify the effective date of coverage and costs for persons enrolled in group health plans through an employer.

f. The effective date of coverage for individual health plans or for group health plans not obtained through an employer shall be verified by a copy of the certificate of coverage for the plan or by some other verification from the insurer.

75.21(9) Method of premium payment. Payments of premiums will be made directly to the insurance carrier except as follows:

a. The department may arrange for payment to an employer in order to circumvent a payroll deduction.

b. When an employer will not agree to accept premium payments from the department in lieu of a payroll deduction to the employee's wages, the department shall reimburse the employee directly for payroll deductions or for payments made directly to the employer for the payment of premiums. The department shall issue reimbursement to the employee five working days before the employee's pay date.

c. When premium payments are occurring through an automatic withdrawal from a bank account by the insurance carrier, the department may reimburse the policyholder for those withdrawals.

d. Payments for COBRA coverage shall be made directly to the insurance carrier or the former employer. Payments may be made directly to the former employee only in those cases where:

- (1) Information cannot be obtained for direct payment, or
- (2) The department pays for only part of the total premium.

e. Reimbursements may also be paid by direct deposit to the member's own account in a financial institution or by means of electronic benefits transfer.

75.21(10) Payment of claims. Claims from medical providers for persons participating in this program shall be paid in the same manner as claims are paid for other persons with a third-party resource in accordance with the provisions of 441—Chapters 79 and 80.

75.21(11) Reviews of cost-effectiveness and eligibility. Reviews of cost-effectiveness and eligibility shall be completed annually and may be conducted more frequently at the discretion of the department.

a. For a group health plan, the review of cost-effectiveness and eligibility may be completed at the time of the health plan contract renewal date. The employer shall complete Health Insurance Premium Payment (HIPP) Program Review, Form 470-3016, for the review.

b. For individual health plans, the client shall complete HIPP Individual Policy Review, Form 470-3017, for the review.

c. Failure of the household to cooperate in the review process shall result in cancellation of premium payment and may result in Medicaid ineligibility as provided in subrule 75.21(1).

d. Redeterminations shall be completed whenever:

- (1) A premium rate, deductible, or coinsurance changes,
- (2) A person covered under the policy loses full Medicaid eligibility,
- (3) Changes in employment or hours of employment affect the availability of health insurance,
- (4) The insurance carrier changes,
- (5) The policyholder leaves the Medicaid home, or
- (6) There is a decrease in the services covered under the policy.

e. The policyholder shall report changes that may affect the availability or cost-effectiveness of the policy within ten calendar days from the date of the change. Changes may be reported by telephone, in writing, or in person.

f. If a change in the number of members in the Medicaid household causes the health plan not to be cost-effective, lesser health plan options, as defined in paragraph 75.21(16) "a," shall be considered if available and cost-effective.

g. When employment ends, hours of employment are reduced, or some other qualifying event affecting the availability of the group health plan occurs, the department shall verify whether coverage may be continued under the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, the Family Leave Act, or other coverage continuation provisions.

(1) The Employer Verification of COBRA Eligibility, Form 470-3037, shall be used for this purpose.

(2) If cost-effective to do so, the department shall pay premiums to maintain insurance coverage for Medicaid members after the occurrence of the event which would otherwise result in termination of coverage.

75.21(12) Time frames for determining cost-effectiveness. The department shall determine cost-effectiveness of the health plan and notify the applicant of the decision regarding payment of the premiums within 65 calendar days from the date an application or referral (as defined in subrule 75.21(8)) is received. Additional time may be taken when, for reasons beyond the control of the department or the applicant, information needed to establish cost-effectiveness cannot be obtained within the 65-day period.

75.21(13) Notices.

a. An adequate notice shall be provided to the household under the following circumstances:

- (1) To inform the household of the initial decision on cost-effectiveness and premium payment.
- (2) To inform the household that premium payments are being discontinued because Medicaid eligibility has been lost by all persons covered under the health plan.
- (3) The health plan is no longer available to the family (e.g., the employer drops insurance coverage or the policy is terminated by the insurance company).

b. The department shall provide a timely and adequate notice as defined in 441—subrule 7.7(1) to inform the household of a decision to discontinue payment of the health insurance premium because:

- (1) The department has determined the health plan is no longer cost-effective, or
- (2) The member has failed to cooperate in providing information necessary to establish continued eligibility for the program.

75.21(14) Rate refund. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policyholder is due for any time period for which the department paid the premium.

75.21(15) Reinstatement of eligibility.

a. When eligibility for the HIPP program is canceled because the persons covered under the health plan lose Medicaid eligibility, HIPP eligibility shall be reinstated when Medicaid eligibility is reestablished if all other eligibility factors are met.

b. When HIPP eligibility is canceled because of the member's failure to cooperate in providing information necessary to establish continued eligibility for the HIPP program, benefits shall be reinstated the first day of the first month in which cooperation occurs, if all other eligibility factors are met.

75.21(16) Amount of premium paid.

a. For group health plans, the individual eligible to enroll in the plan shall provide verification of the cost of all possible health plan options (i.e., single, employee/children, family).

(1) The HIPP program shall pay only for the option that provides coverage to the Medicaid-eligible family members in the household and is determined to be cost-effective.

(2) The HIPP program shall not pay the portion of the premium cost which is the responsibility of the employer or other plan sponsor.

b. For individual health plans, the HIPP program shall pay the cost of covering the Medicaid members covered by the plan.

c. For both group and individual health plans, if another household member must be covered to obtain coverage for the Medicaid members, the HIPP program shall pay the cost of covering that household member if the coverage is cost-effective as determined pursuant to subrules 75.21(3) and 75.21(4).

75.21(17) Reporting changes. Failure to report and verify changes may result in cancellation of Medicaid benefits.

a. The client shall verify changes in an employer-sponsored health plan by providing a pay stub reflecting the change or a statement from the employer.

b. Changes in employment or the employment-related insurance carrier shall be verified by the employer.

c. The client shall verify changes in individual policies, such as premiums or deductibles, with a statement from the insurance carrier.

d. Any benefits paid during a period in which there was ineligibility for HIPP due to unreported changes shall be subject to recovery in accordance with the provisions of 441—Chapter 11.

e. Any underpayment that results from an unreported change shall be paid effective the first day of the month in which the change is reported.

This rule is intended to implement Iowa Code section 249A.3.
[ARC 7935B, IAB 7/1/09, effective 9/1/09; ARC 8503B, IAB 2/10/10, effective 1/13/10]

441—75.22(249A) AIDS/HIV health insurance premium payment program. For the purposes of this rule, “AIDS” and “HIV” are defined in accordance with Iowa Code section 141A.1.

75.22(1) Conditions of eligibility. The department shall pay for the cost of continuing health insurance coverage to persons with AIDS or HIV-related illnesses when the following criteria are met:

a. The person with AIDS or HIV-related illness shall be the policyholder, or the spouse of the policyholder, of an individual or group health plan.

b. The person shall be a resident of Iowa in accordance with the provisions of rule 441—75.10(249A).

c. The person shall not be eligible for Medicaid. The person shall be required to apply for Medicaid benefits when it appears Medicaid eligibility may exist. Persons who are required to meet a spenddown obligation under the medically needy program, as provided in subrule 75.1(35), are not considered Medicaid-eligible for the purpose of establishing eligibility under these provisions.

When Medicaid eligibility is attained, premium payments shall be made under the provisions of rule 441—75.21(249A) if all criteria of that rule are met.

d. A physician’s statement shall be provided verifying the policyholder or the spouse of the policyholder suffers from AIDS or an HIV-related illness. The physician’s statement shall also verify that the policyholder or the spouse of the policyholder is or will be unable to continue employment in the person’s current position or that hours of employment will be significantly reduced due to AIDS or HIV-related illness. The Physician’s Verification of Diagnosis, Form 470-2958, shall be used to obtain this information from the physician.

e. Gross income shall not exceed 300 percent of the federal poverty level for a family of the same size. The gross income of all family members shall be counted using the definition of gross income under the supplemental security income (SSI) program.

f. Liquid resources shall not exceed \$10,000 per household. The following are examples of countable resources:

(1) Unobligated cash.

(2) Bank accounts.

(3) Stocks, bonds, certificates of deposit, excluding Internal Revenue Service defined retirement plans.

g. The health insurance plan must be cost-effective based on the amount of the premium and the services covered.

75.22(2) Application process.

a. *Application.* Persons applying for participation in this program shall complete the AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953. The applicant shall be required to provide documentation of income and assets. The application shall be available from and may be filed at any county departmental office or at the Division of Medical Services, Department of Human Services, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

An application shall be considered as filed on the date an AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953, containing the applicant’s name, address and signature is received and date-stamped in any county departmental office or the division of medical services.

b. *Time limit for decision.* Every reasonable effort will be made to render a decision within 30 days. Additional time for rendering a decision may be taken when, due to circumstances beyond the control of the applicant or the department, a decision regarding the applicant’s eligibility cannot be reached within 30 days (e.g., verification from a third party has not been received).

c. Eligible on the day of decision. No payments will be made for current or retroactive premiums if the person with AIDS or an HIV-related illness is deceased prior to a final eligibility determination being made on the application, if the insurance plan has lapsed, or if the person has otherwise lost coverage under the insurance plan.

d. Waiting list. After funds appropriated for this purpose are obligated, pending applications shall be denied by the division of medical services. A denial shall require a notice of decision to be mailed within ten calendar days following the determination that funds have been obligated. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications were filed. In the event that more than one application is received at one time, applicants shall be entered on the waiting list on the basis of the day of the month of the applicant's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

75.22(3) Presumed eligibility The applicant may be presumed eligible to participate in the program for a period of two calendar months or until a decision regarding eligibility can be made, whichever is earlier. Presumed eligibility shall be granted when:

a. The application is accompanied by a completed Physician's Verification of Diagnosis, Form 470-2958.

b. The application is accompanied by a premium statement from the insurance carrier indicating the policy will lapse before an eligibility determination can be made.

c. It can be reasonably anticipated that the applicant will be determined eligible from income and resource statements on the application.

75.22(4) Family coverage. When the person is enrolled in a policy that provides health insurance coverage to other members of the family, only that portion of the premium required to maintain coverage for the policyholder or the policyholder's spouse with AIDS or an HIV-related illness shall be paid under this rule unless modification of the policy would result in a loss of coverage for the person with AIDS or an HIV-related illness.

75.22(5) Method of premium payment. Premiums shall be paid in accordance with the provisions of subrule 75.21(9).

75.22(6) Effective date of premium payment. Premium payments shall be effective with the month of application or the effective date of eligibility, whichever is later.

75.22(7) Reviews. The circumstances of persons participating in the program shall be reviewed quarterly to ensure eligibility criteria continues to be met. The AIDS/HIV Health Insurance Premium Payment Program Review, Form 470-2877, shall be completed by the recipient or someone acting on the recipient's behalf for this purpose.

75.22(8) Termination of assistance. Premium payments for otherwise eligible persons shall be paid under this rule until one of the following conditions is met:

a. The person becomes eligible for Medicaid. In which case, premium payments shall be paid in accordance with the provisions of rule 441—75.21(249A).

b. The insurance coverage is no longer available.

c. Maintaining the insurance plan is no longer considered the most cost-effective way to pay for medical services.

d. Funding appropriated for the program is exhausted.

e. The person with AIDS or an HIV-related illness dies.

f. The person fails to provide requested information necessary to establish continued eligibility for the program.

75.22(9) Notices.

a. An adequate notice as defined in 441—subrule 7.7(1) shall be provided under the following circumstances:

(1) To inform the applicant of the initial decision regarding eligibility to participate in the program.

(2) To inform the recipient that premium payments are being discontinued under these provisions because Medicaid eligibility has been attained and premium payments will be made under the provisions of rule 441—75.21(249A).

(3) To inform the recipient that premium payments are being discontinued because the policy is no longer available.

(4) To inform the recipient that premium payments are being discontinued because funding for the program is exhausted.

(5) The person with AIDS or an HIV-related illness dies.

b. A timely and adequate notice as defined in 441—subrule 7.7(1) shall be provided to the recipient informing the recipient of a decision to discontinue payment of the health insurance premium when the recipient no longer meets the eligibility requirements of the program or fails to cooperate in providing information to establish eligibility.

75.22(10) Confidentiality. The department shall protect the confidentiality of persons participating in the program in accordance with Iowa Code section 141A.9. When it is necessary for the department to contact a third party to obtain information in order to determine initial or ongoing eligibility, a Consent to Obtain and Release Information, Form 470-0429, shall be signed by the recipient authorizing the department to make the contact.

This rule is intended to implement Iowa Code section 249A.4.

441—75.23(249A) Disposal of assets for less than fair market value after August 10, 1993. In determining Medicaid eligibility for persons described in 441—Chapters 75 and 83, a transfer of assets occurring after August 10, 1993, will affect Medicaid payment for medical services as provided in this rule.

75.23(1) Ineligibility for services. When an individual or spouse has transferred or disposed of assets for less than fair market value as defined in 75.23(11) on or after the look-back date specified in 75.23(2), the individual shall be ineligible for medical assistance as provided in this subrule.

a. Institutionalized individual. When an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the institutionalized individual is ineligible for medical assistance payment for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home- and community-based waiver services. The period of ineligibility is equal to the number of months specified in 75.23(3). The department shall determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving nursing facility services, a level of care in any institution equivalent to that of nursing facility services, or home- and community-based waiver services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

b. Noninstitutionalized individual. When a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the individual is ineligible for medical assistance payment for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services. The period of ineligibility is equal to the number of months specified in 75.23(3). The department shall determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving home health care services, home and community care for functionally disabled elderly individuals, personal care services, or other long-term care services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

c. Client participation after period of ineligibility. Expenses incurred for long-term care services during a transfer of assets penalty period may not be deducted as medical expenses in determining client participation pursuant to subrule 75.16(2).

75.23(2) Look-back date.

a. Transfer before February 8, 2006. For transfers made before February 8, 2006, the look-back date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

b. Transfer on or after February 8, 2006. For transfers made on or after February 8, 2006, the look-back date is the date that is 60 months before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, 2013, through June 30, 2014, this average statewide cost shall be \$5,057.65 per month or \$166.37 per day.

75.23(4) Reduction of period of ineligibility. The number of months of ineligibility otherwise determined with respect to the disposal of an asset shall be reduced by the months of ineligibility applicable to the individual prior to a change in institutional status.

75.23(5) Exceptions. An individual shall not be ineligible for medical assistance, under this rule, to the extent that:

a. The assets transferred were a home and title to the home was transferred to either:

(1) A spouse of the individual.

(2) A child of the individual who is under the age of 21 or is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c.

(3) A sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the individual became institutionalized.

(4) A son or daughter of the individual who was residing in the individual's home for a period of at least two years immediately before the date of institutionalization and who provided care to the individual which permitted the individual to reside at home rather than in an institution or facility.

b. The assets were transferred:

(1) To the individual's spouse or to another for the sole benefit of the individual's spouse.

(2) From the individual's spouse to another for the sole benefit of the individual's spouse.

(3) To a child of the individual who is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c or to a trust established solely for the benefit of such a child.

(4) To a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined in 42 U.S.C. Section 1382c.

c. A satisfactory showing is made that one of the following is true:

(1) The individual intended to dispose of the assets either at fair market value, or for other valuable consideration.

(2) The assets were transferred exclusively for a purpose other than to qualify for medical assistance.

(3) All assets transferred for less than fair market value have been returned to the individual.

d. The denial of eligibility would work an undue hardship. Undue hardship shall exist only when all of the following conditions are met:

(1) Application of the transfer of asset penalty would deprive the individual of medical care such that the individual's health or life would be endangered or of food, clothing, shelter, or other necessities of life.

(2) The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.

(3) The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources except for:

1. The home if occupied by a dependent relative or if a licensed physician verifies that the person is expected to return home.

2. Household goods.

3. A vehicle required by the client for transportation.

4. Funds for burial of \$4,000 or less.

Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless the client demonstrates that payments cannot be obtained from the funds of the person who handled the financial affairs to pay for long-term care services.

75.23(6) *Assets held in common.* In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of the asset.

75.23(7) *Transfer by spouse.* In the case of a transfer by a spouse of an individual which results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility shall be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period shall be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period shall be applied to the surviving spouse's period of ineligibility.

75.23(8) *Definitions.* In this rule the following definitions apply:

"*Assets*" shall include all income and resources of the individual and the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by:

1. The individual or the individual's spouse.

2. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.

3. Any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"*Income*" shall be defined by 42 U.S.C. Section 1382a.

“Institutionalized individual” shall mean an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility or who is eligible for home- and community-based waiver services.

“Resources” shall be defined by 42 U.S.C. Section 1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.

“Transfer or disposal of assets” means any transfer or assignment of any legal or equitable interest in any asset as defined above, including:

1. Giving away or selling an interest in an asset;
2. Placing an interest in an asset in a trust that is not available to the grantor (see 75.24(2) “b”(2));
3. Removing or eliminating an interest in a jointly owned asset in favor of other owners;
4. Disclaiming an inheritance of any property, interest, or right pursuant to Iowa Code section 633.704 on or after July 1, 2000 (see Iowa Code section 249A.3(11) “c”);
5. Failure to take a share of an estate as a surviving spouse (also known as “taking against a will”) on or after July 1, 2000, to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will (see Iowa Code section 249A.3(11) “d”); or
6. Transferring or disclaiming the right to income not yet received.

75.23(9) Purchase of annuities. Funds used to purchase an annuity for more than its fair market value shall be treated as assets transferred for less than fair market value regardless of when the annuity was purchased or whether the conditions described in this subrule were met.

a. The entire amount used to purchase an annuity on or after February 8, 2006, with a Medicaid applicant or member as the annuitant shall be treated as assets transferred for less than fair market value unless the annuity meets one of the conditions described in paragraph 75.23(9) “b” and also meets the condition described in paragraph 75.23(9) “c.”

b. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9) “a” must meet one of the following conditions:

(1) The annuity is an annuity described in Subsection (b) or (q) of Section 408 of the United States Internal Revenue Code of 1986.

(2) The annuity is purchased with proceeds from:

1. An account or trust described in Subsection (a), (c), or (p) of Section 408 of the United States Internal Revenue Code of 1986;

2. A simplified employee pension (within the meaning of Section 408(k) of the United States Internal Revenue Code of 1986); or

3. A Roth IRA described in Section 408A of the United States Internal Revenue Code of 1986.

(3) The annuity:

1. Is irrevocable and nonassignable;

2. Is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration); and

3. Provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

c. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9) “a” must have Iowa named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant’s spouse, if either is institutionalized. Iowa may be named either:

(1) In the first position; or

(2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

d. The entire amount used to purchase an annuity on or after February 8, 2006, with the spouse of a Medicaid applicant or member as the annuitant shall be treated as assets transferred for less than fair market value unless Iowa is named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant’s spouse, if either is institutionalized. Iowa may be named either:

- (1) In the first position; or
- (2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

75.23(10) Purchase of promissory notes, loans, or mortgages.

a. Funds used to purchase a promissory note, loan, or mortgage after February 8, 2006, shall be treated as assets transferred for less than fair market value in the amount of the outstanding balance due on the note, loan, or mortgage as of the date of the individual's application for medical assistance for services described in 75.23(1), unless the note, loan, or mortgage meets all of the following conditions:

(1) The note, loan, or mortgage has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration).

(2) The note, loan, or mortgage provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made.

(3) The note, loan, or mortgage prohibits the cancellation of the balance upon the death of the lender.

b. Funds used to purchase a promissory note, loan, or mortgage for less than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

(1) The note, loan, or mortgage was purchased before February 8, 2006; or

(2) The note, loan, or mortgage was purchased on or after February 8, 2006, and the conditions described in 75.23(9) "a" were met.

75.23(11) Purchase of life estates.

a. The entire amount used to purchase a life estate in another individual's home after February 8, 2006, shall be treated as assets transferred for less than fair market value, unless the purchaser resides in the home for at least one year after the date of the purchase.

b. Funds used to purchase a life estate in another individual's home for more than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

(1) The life estate was purchased before February 8, 2006; or

(2) The life estate was purchased on or after February 8, 2006, and the purchaser resided in the home for one year after the date of purchase.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

[**ARC 7834B**, IAB 6/3/09, effective 7/8/09; **ARC 8444B**, IAB 1/13/10, effective 3/1/10; **ARC 8898B**, IAB 6/30/10, effective 7/1/10; **ARC 9404B**, IAB 3/9/11, effective 5/1/11; **ARC 9582B**, IAB 6/29/11, effective 7/1/11; **ARC 0192C**, IAB 7/11/12, effective 7/1/12; **ARC 0821C**, IAB 7/10/13, effective 7/1/13]

441—75.24(249A) Treatment of trusts established after August 10, 1993. For purposes of determining an individual's eligibility for, or the amount of, medical assistance benefits, trusts established after August 10, 1993, (except for trusts specified in 75.24(3)) shall be treated in accordance with 75.24(2).

75.24(1) Establishment of trust.

a. For the purposes of this rule, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the principal of the trust and if any of the following individuals established the trust other than by will: the individual, the individual's spouse, a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse), or a person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

b. The term "assets," with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by the individual or the individual's spouse, by a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual's spouse), or by any person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

c. In the case of a trust, the principal of which includes assets of an individual and assets of any other person or persons, the provisions of this rule shall apply to the portion of the trust attributable to the individual.

d. This rule shall apply without regard to:

- (1) The purposes for which a trust is established.
- (2) Whether the trustees have or exercise any discretion under the trust.
- (3) Any restrictions on when or whether distribution may be made for the trust.
- (4) Any restriction on the use of distributions from the trust.

e. The term “trust” includes any legal instrument or device that is similar to a trust, including a conservatorship.

75.24(2) Treatment of revocable and irrevocable trusts.

a. In the case of a revocable trust:

(1) The principal of the trust shall be considered an available resource.

(2) Payments from the trust to or for the benefit of the individual shall be considered income of the individual.

(3) Any other payments from the trust shall be considered assets disposed of by the individual, subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

b. In the case of an irrevocable trust:

(1) If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the principal from which, or the income on the principal from which, payment to the individual could be made shall be considered an available resource to the individual and payments from that principal or income to or for the benefit of the individual shall be considered income to the individual. Payments for any other purpose shall be considered a transfer of assets by the individual subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

(2) Any portion of the trust from which, or any income on the principal from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual subject to the penalties specified at 75.23(3) and 441—Chapter 89. The value of the trust shall be determined for this purpose by including the amount of any payments made from this portion of the trust after this date.

75.24(3) Exceptions. This rule shall not apply to any of the following trusts:

a. A trust containing the assets of an individual under the age of 65 who is disabled (as defined in Section 1614(a)(3) of the Social Security Act) and which is established for the benefit of the individual by a parent, grandparent, legal guardian of the individual, or a court if the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, 2013, to June 30, 2014, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is \$4,642 per month.

(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is \$25,922 per month.

(3) The average statewide charge to a resident of a mental health institute is \$19,590 per month.

(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is \$6,111 per month.

(5) The average statewide charge to a home- and community-based waiver applicant or member shall be consistent with the level of care determination and correspond with the average charges and rates set forth in this paragraph.

c. A trust containing the assets of an individual who is disabled (as defined in 1614(a)(3) of the Social Security Act) that meets the following conditions:

- (1) The trust is established and managed by a nonprofit association.
- (2) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.
- (3) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in 1614(a)(3) of the Social Security Act) by the parent, grandparent, or legal guardian of the individuals, by the individuals or by a court.
- (4) To the extent that amounts remaining in the beneficiary's account upon death of the beneficiary are not retained by the trust, the trust pays to the state from the remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 7834B, IAB 6/3/09, effective 7/8/09; ARC 8898B, IAB 6/30/10, effective 7/1/10; ARC 9582B, IAB 6/29/11, effective 7/1/11; ARC 0192C, IAB 7/11/12, effective 7/1/12; ARC 0822C, IAB 7/10/13, effective 7/1/13; ARC 0821C, IAB 7/10/13, effective 7/1/13]

441—75.25(249A) Definitions. Unless otherwise specified, the definitions in this rule shall apply to 441—Chapters 75 through 85 and 88.

“*Aged*” shall mean a person 65 years of age or older.

“*Applicant*” shall mean a person who is requesting assistance, including recertification under the medically needy program, on the person's own behalf or on behalf of another person. This also includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

“*Blind*” shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

“*Break in assistance*” for medically needy shall mean the lapse of more than three months from the end of the medically needy certification period to the beginning of the next current certification period.

“*Central office*” shall mean the state administrative office of the department of human services.

“*Certification period*” for medically needy shall mean the period of time not to exceed two consecutive months in which a person is conditionally eligible.

“*Client*” shall mean all of the following:

1. A Medicaid applicant;
2. A Medicaid member;
3. A person who is conditionally eligible for Medicaid; and
4. A person whose income or assets are considered in determining eligibility for an applicant or member.

“*CMAP-related medically needy*” shall mean those individuals under the age of 21 who would be eligible for the child medical assistance program except for excess income or resources.

“*Community spouse*” shall mean a spouse of an institutionalized spouse for the purposes of rules 441—75.5(249A), 441—75.16(249A), and 441—76.10(249A).

“*Conditionally eligible*” shall mean that a person has completed the application process and has been assigned a medically needy certification period and spenddown amount but has not met the spenddown amount for the certification period or has been assigned a monthly premium but has not yet paid the premium for that month.

“*Coverage group*” shall mean a group of persons who meet certain common eligibility requirements.

“*Department*” shall mean the Iowa department of human services.

“*Disabled*” shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months from the date of application.

“*FMAP-related medically needy*” shall mean those persons who would be eligible for the family medical assistance program except for excess income or resources.

“*Health insurance*” shall mean protection which provides payment of benefits for covered sickness or injury.

“Incurred medical expenses” for medically needy shall mean (1) medical bills paid by a client, responsible relative, or state or political subdivision program other than Medicaid during the retroactive certification period or certification period, or (2) unpaid medical expenses for which the client or responsible relative remains obligated.

“Institutionalized person” shall mean a person who is an inpatient in a nursing facility or a Medicare-certified skilled nursing facility, who is an inpatient in a medical institution and for whom payment is made based on a level of care provided in a nursing facility, or who is a person described in 75.1(18) for the purposes of rule 441—75.5(249A).

“Institutionalized spouse” shall mean a married person living in a medical institution, or nursing facility, or home- and community-based waiver setting who is likely to remain living in these circumstances for at least 30 consecutive days, and whose spouse is not in a medical institution or nursing facility for the purposes of rules 441—75.5(249A), 441—75.16(249A), and 441—76.10(249A).

“Local office” shall mean the county office of the department of human services or the mental health institute or hospital school.

“Medically needy income level (MNIL)” shall mean 133 1/3 percent of the schedule of basic needs based on family size. (See subrule 75.58(2).)

“Member” shall mean a person who has been determined eligible for medical assistance under rule 441—75.1(249A). For the medically needy program, “member” shall mean a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced countable income to the MNIL during the certification period through spenddown. “Member” may be used interchangeably with “recipient.” This definition does not apply to the phrase “household member.”

“Necessary medical and remedial services” for medically needy shall mean medical services recognized by law which are currently covered under the Iowa Medicaid program.

“Noncovered Medicaid services” for medically needy shall mean medical services that are not covered under Medicaid because the provider was not enrolled in Medicaid, the bill is for a responsible relative who is not in the Medicaid-eligible group or the bill is for services delivered before the start of a certification period.

“Nursing facility services” shall mean the level of care provided in a medical institution licensed for nursing services or skilled nursing services for the purposes of rule 441—75.23(249A).

“Obligated medical expense” for medically needy shall mean a medical expense for which the client or responsible relative continues to be legally liable.

“Ongoing eligibility” for medically needy shall mean that eligibility continues for an SSI-related, CMAP-related, or FMAP-related medically needy person with a zero spenddown.

“Pay and chase” shall mean that the state pays the total amount allowed under the agency’s payment schedule and then seeks reimbursement from the liable third party. The pay and chase provision applies to Medicaid claims for prenatal care, for preventive pediatric services, and for all services provided to a person for whom there is court-ordered medical support.

“Payee” refers to an SSI payee as defined in Iowa Code subsections 633.33(7) and 633.3(20).

“Recertification” in the medically needy coverage group shall mean establishing a new certification period when the previous period has expired and there has not been a break in assistance.

“Recipient” shall mean a person who is receiving assistance including receiving assistance for another person.

“Responsible relative” for medically needy shall mean a spouse, parent, or stepparent living in the household of the client.

“Retroactive certification period” for medically needy shall mean one, two, or three calendar months prior to the date of application. The retroactive certification period begins with the first month Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

“Retroactive period” shall mean the three calendar months immediately preceding the month in which an application is filed.

“Spenddown” shall mean the process by which a medically needy person obligates excess income for allowable medical expenses to reduce income to the appropriate MNIL.

“*SSI-related*” shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except that income shall be considered prospectively.

“*SSI-related medically needy*” shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except for income or resources.

“*Supply*” shall mean the requested information is received by the department by the specified due date.

“*Transfer of assets*” shall mean transfer of resources or income for less than fair market value for the purposes of rule 441—75.23(249A). For example, a transfer of resources or income could include establishing a trust, contributing to a charity, removing a name from a resource or income, or reducing ownership interest in a resource or income.

“*Unborn child*” shall include an unborn child during the entire term of pregnancy.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 7935B, IAB 7/1/09, effective 9/1/09]

441—75.26(249A) References to the family investment program. Rescinded IAB 10/8/97, effective 12/1/97.

441—75.27(249A) AIDS/HIV settlement payments. The following payments are exempt as income and resources when determining eligibility for or the amount of Medicaid benefits under any coverage group if the payments are kept in a separate, identifiable account:

75.27(1) Class settlement payments. Payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation, et al.*, 96-C-5024 (N.D. Ill.) are exempt.

75.27(2) Other settlement payments. Payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement referred to in subrule 75.27(1) and that is signed by all affected parties in the cases on or before the later of December 31, 1997, or the date that is 270 days after the date on which the release is first sent to the person (or the legal representative of the person) to whom payment is to be made are exempt.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

441—75.28(249A) Recovery.

75.28(1) Definitions.

“*Administrative overpayment*” means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare Part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

“*Agency error*” means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

“*Client*” means a current or former Medicaid member.

“*Client error*” means medical assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. “*Client error*” also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.15(249A).

“*Department*” means the department of human services.

“*Premiums paid for medical assistance*” means monthly premiums assessed to a member or household for Medicaid, IowaCare or the Iowa Health and Wellness Plan coverage.

75.28(2) Amount subject to recovery. The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error or administrative overpayment.

75.28(3) Notification. All clients shall be promptly notified on Form 470-2891, Notice of Medical Assistance Overpayment, when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures shall include:

- (1) For whom assistance was paid;
- (2) The period during which assistance was incorrectly paid;
- (3) The amount of assistance subject to recovery; and
- (4) The reason for the incorrect expenditure.

b. Notification of unpaid premiums shall include:

- (1) The amount of the premium; and
- (2) The month covered by the medical assistance premium.

75.28(4) Source of recovery. Recovery shall be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

75.28(5) Repayment. The repayment of incorrectly expended Medicaid funds shall be made to the department. However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an intermediate care facility for persons with an intellectual disability, or mental health institute enrolled as an inpatient psychiatric facility may be made by the client to the facility. The department shall then recover the funds from the facility through a vendor adjustment.

75.28(6) Appeals. The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

75.28(7) Estate recovery. Medical assistance is subject to recovery from the estate of a Medicaid member, the estate of the member’s surviving spouse, or the estate of the member’s surviving child as provided in this subrule. Effective January 1, 2010, medical assistance that has been paid for Medicare cost sharing or for benefits described in Section 1902(a)(10)(E) of the Social Security Act is not subject to recovery. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.5(2) “d.” The classification of the debt is defined at Iowa Code section 633.425(7).

a. Definition of estate. For the purpose of this subrule, the “estate” of a Medicaid member, a surviving spouse, or a surviving child shall include all real property, personal property, or any other asset in which the member, spouse, or surviving child had any legal title or interest at the time of death, or at the time a child reaches the age of 21, to the extent of that interest. An estate includes, but is not limited to, interest in jointly held property, retained life estates, and interests in trusts.

b. Debt due for member 55 years of age or older. Receipt of medical assistance when a member is 55 years of age or older creates a debt due to the department from the member’s estate upon the member’s death for all medical assistance provided on the member’s behalf on or after July 1, 1994.

c. Debt due for member under the age of 55 in a medical institution.

(1) Receipt of medical assistance creates a debt due to the department from the member’s estate upon the member’s death for all medical assistance provided on the member’s behalf on or after July 1, 1994, when the member:

1. Is under the age of 55; and
2. Is a resident of a nursing facility, an intermediate care facility for persons with an intellectual disability, or a mental health institute; and
3. Cannot reasonably be expected to be discharged and return home.

(2) If the member is discharged from the facility and returns home before staying six consecutive months, no debt will be assessed for medical assistance payments made on the member's behalf for the time in the institution.

(3) If the member remains in the facility for six consecutive months or longer or dies before staying six consecutive months, the department shall presume that the member cannot or could not reasonably be expected to be discharged and return home and a debt due shall be established. The department shall notify the member of the presumption and the establishment of a debt due.

d. Request for a determination of ability to return home. Upon receipt of a notice of the establishment of a debt due based on the presumption that the member cannot return home, the member or someone acting on the member's behalf may request that the department determine whether the member can or could reasonably have been expected to return home.

(1) When a written request is made within 30 days of the notice that a debt due will be established, no debt due shall be established until the department has made a decision on the member's ability to return home. If the determination is that there is or was no ability to return home, a debt due shall be established for all medical assistance as of the date of entry into the institution.

(2) When a written request is made more than 30 days after the notice that a debt due will be established, a debt due will be established for medical assistance provided before the request even if the determination is that the member can or could have returned home.

e. Determination of ability to return home. When the member or someone acting on the member's behalf requests that the department determine if the member can or could have returned home, the determination shall be made by the Iowa Medicaid enterprise (IME) medical services unit.

(1) The IME medical services unit cannot make a determination until the member has been in an institution at least six months or after the death of the member, whichever is earlier. The IME medical services unit will notify the member or the member's representative and the department of the determination.

(2) If the determination is that the member can or could return home, the IME medical services unit shall establish the date the return is expected or could have been expected to occur.

(3) If the determination is that the member cannot or could not return home, a debt due will be established unless the member or the member's representative asks for a reconsideration of the decision. The IME medical services unit will notify the member or the member's representative and the department of the reconsideration decision.

(4) If the reconsideration decision is that the member cannot or could not return home, a debt due will be established against the member unless the decision is appealed pursuant to 441—Chapter 7. The appeal decision will determine the final outcome for the establishment of a debt due and the period when the debt is established.

f. Debt collection.

(1) A nursing facility participating in the medical assistance program shall notify the IME revenue collection unit upon the death of a member residing in the facility by submitting Form 470-4331, Estate Recovery Program Nursing Home Referral.

(2) Upon receipt of Form 470-4331 or a report of a member's death through other means, the IME revenue collection unit will use Form 470-4339, Medical Assistance Debt Response, to request a statement of the member's assets from the member's personal representative. The representative shall sign and return Form 470-4339 indicating whether assets remain and, if so, what the assets are and what higher priority expenses exist. EXCEPTION: The procedures in this subparagraph are not necessary when a probate estate has been opened, because probate procedures provide for an inventory, an accounting, and a final report of the estate.

g. Waiving the collection of the debt.

(1) The department shall waive the collection of the debt created under this subrule from the estate of the member to the extent that collection of the debt would result in either of the following:

1. Reduction in the amount received from the member's estate by a surviving spouse or by a surviving child who is under the age of 21, blind, or permanently and totally disabled at the time of the member's death.

2. Creation of an undue hardship for the person seeking a waiver of estate recovery. Undue hardship exists when total household income is less than 200 percent of the poverty level for a household of the same size, total household resources do not exceed \$10,000, and application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered. For this purpose, “income” and “resources” shall be defined as being under the family medical assistance program.

(2) To apply for a waiver of estate recovery due to undue hardship, the person shall provide a written statement and supporting verification to the department within 30 days of the notice of estate recovery pursuant to Iowa Code section 633.425.

(3) The department shall determine whether undue hardship exists on a case-by-case basis. Appeals of adverse decisions regarding an undue hardship determination may be filed in accordance with 441—Chapter 7.

h. Amount waived. If collection of all or part of a debt is waived pursuant to paragraph 75.28(7) “g,” to the extent that the person received the member’s estate, the amount waived shall be a debt due from the following:

- (1) The estate of the member’s surviving spouse, upon the death of the spouse.
- (2) The estate of the member’s surviving child who is blind or has a disability, upon the death of the child.
- (3) A surviving child who was under 21 years of age at the time of the member’s death, when the child reaches the age of 21.
- (4) The estate of a surviving child who was under 21 years of age at the time of the member’s death, if the child dies before reaching the age of 21.
- (5) The hardship waiver recipient, when the hardship no longer exists.
- (6) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient.

i. Impact of asset disregard on debt due. The estate of a member who is eligible for medical assistance under subrule 75.5(5) shall not be subject to a claim for medical assistance paid on the member’s behalf up to the amount of the assets disregarded by asset disregard. Medical assistance paid on behalf of the member before these conditions shall be recovered from the estate, regardless of the member’s having purchased precertified or approved insurance.

j. Interest on debt. Interest shall accrue on a debt due under this subrule at the rate provided pursuant to Iowa Code section 535.3, beginning six months after the death of a Medicaid member, the surviving spouse, or the surviving child, or upon the child’s reaching the age of 21.

k. Reimbursement to county. If a county reimburses the department for medical assistance provided under this subrule and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in Iowa Code chapter 633C, the department shall reimburse the county on a proportionate basis.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.29(249A) Investigation by quality control or the department of inspections and appeals. An applicant or member shall cooperate with the department when the applicant’s or member’s case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of medical assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once a person’s eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.30(249A) Member lock-in. In order to promote high-quality health care and to prevent harmful practices such as duplication of medical services, drug abuse or overuse, and possible drug interactions, members that utilize medical assistance services or items at a frequency or in an amount

which is considered to be overuse of services as defined in subrule 75.30(7) may be restricted (locked-in) to receive services from a designated provider(s).

75.30(1) A lock-in or restriction shall be imposed for a minimum of 24 months with longer restrictions determined on an individual basis.

75.30(2) Provider selection. The member may select the provider(s) from which services will be received. The designated providers will be identified on the department's eligibility verification system (ELVS). Only prescriptions written or approved by the designated primary provider(s) will be reimbursed. Other providers of the restricted service will be reimbursed only under circumstances specified in subrule 75.30(3).

75.30(3) Payment will be made to a provider(s) other than the designated (lock-in) provider(s) in the following instances:

a. Emergency care is required and the designated provider is not available. Emergency care is defined as care necessary to sustain life or prevent a condition which could cause physical disability.

b. The designated provider requires consultation with another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 75.30(5).

c. The designated provider refers the member to another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 75.30(5).

75.30(4) When the member fails to choose a provider(s) within 30 days of the request, the division of medical services will select the provider(s) based on previously utilized provider(s) and reasonable access for the member.

75.30(5) Members may change a designated provider(s) when a change is warranted, such as when the member has moved, the provider no longer participates, or the provider refuses to see the patient. The worker for the member shall make the determination when the member has demonstrated that a change is warranted. Members may add additional providers to the original designation with approval of a health professional employed by the department for this purpose.

75.30(6) When lock-in is imposed on a member, timely and adequate notice shall be sent and an opportunity for a hearing given in accordance with 441—Chapter 7.

75.30(7) Overuse of services is defined as receipt of treatments, drugs, medical supplies or other Medicaid benefits from one or multiple providers of service in an amount, duration, or scope in excess of that which would reasonably be expected to result in a medical or health benefit to the patient.

a. Determination of overuse of service shall be based on utilization data generated by the Surveillance and Utilization Review Subsystem of the Medicaid Management Information System. The system employs an exception-reporting technique to identify the members most likely to be program overutilizers by reporting cases in which the utilization exceeds the statistical average.

b. In addition to referrals from the Surveillance and Utilization Review Subsystem described in paragraph 75.30(7) "a," referrals for utilization review shall be made when utilization data generated by the Medicaid Management Information System reflects that utilization of Medicaid member outpatient visits to physicians, advanced registered nurse practitioners, federally qualified health centers, rural health centers, other clinics, and emergency rooms exceeds 24 visits in any 12-month period. This utilization review shall not apply to Medicaid members who are enrolled in the MediPASS program or a health maintenance organization or who are children under 21 years of age or residents of a nursing facility. For the purposes of this paragraph, the term "physician" does not include a psychiatrist.

c. An investigation process of Medicaid members determined in paragraph 75.30(7) "a" or "b" to be subject to a review of overutilization shall be conducted to determine if actual overutilization exists by verifying that the information reported by the computer system is valid and is also unusual based on professional medical judgment. Medical judgments shall be made by physicians, pharmacists, nurses and other health professionals either employed by, under contract to, or as consultants for the department. These medical judgments shall be made by the health professionals on the basis of the body

of knowledge each has acquired which meets the standards necessary for licensure or certification under the Iowa licensing statutes for the particular health discipline.

[ARC 1266C, IAB 1/8/14, effective 1/1/14; ARC 1355C, IAB 3/5/14, effective 4/9/14]

441—75.31 to 75.49 Reserved.

DIVISION II
ELIGIBILITY FACTORS SPECIFIC TO COVERAGE GROUPS RELATED TO
THE FAMILY MEDICAL ASSISTANCE PROGRAM (FMAP)

441—75.50(249A) Definitions. The following definitions apply to this division in addition to the definitions in rule 441—75.25(249A).

“Applicant” shall mean a person who is requesting assistance on the person’s own behalf or on behalf of another person, including recertification under the medically needy program. This also includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

“Application period” means the months beginning with the month in which the application is considered to be filed, through and including the month in which an eligibility determination is made.

“Assistance unit” includes any person whose income is considered when determining eligibility.

“Bona fide offer” means an actual or genuine offer which includes a specific wage or a training opportunity at a specified place when used to determine whether the parent has refused an offer of training or employment.

“Central office” shall mean the state administrative office of the department of human services.

“Change in income” means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

“Change in work expenses” means a permanent change in the cost of dependent care or the beginning or ending of dependent care.

“Department” shall mean the Iowa department of human services.

“Dependent” means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

“Dependent child” or *“dependent children”* means a child or children who meet the nonfinancial eligibility requirements of the applicable FMAP-related coverage group.

“Income in-kind” is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

“Initial two months” means the first two consecutive months for which eligibility is granted.

“Medical institution,” when used in this division, shall mean a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility’s license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals.
2. Extended care facilities (skilled nursing).
3. Intermediate care facilities.
4. Mental health institutions.
5. Hospital schools.

“Needy specified relative” means a nonparental specified relative, listed in 75.55(1), who meets all the eligibility requirements of the FMAP coverage group, listed in 75.1(14).

“Nonrecurring lump sum unearned income” means a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits such as social security, job insurance or workers’ compensation.

“Parent” means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

“Prospective budgeting” means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

“Recipient” means a person for whom Medicaid is received as well as parents living in the home with the eligible children and other specified relatives as defined in subrule 75.55(1) who are receiving Medicaid for the children. Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

“Schedule of needs” means the total needs of a group as determined by the schedule of living costs, described at subrule 75.58(2).

“Stepparent” means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child’s parent by ceremonial or common-law marriage.

“Unborn child” shall include an unborn child during the entire term of the pregnancy.

“Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

441—75.51(249A) Reinstatement of eligibility. Rescinded IAB 2/10/10, effective 3/1/10.

441—75.52(249A) Continuing eligibility.

75.52(1) Reviews. Eligibility factors shall be reviewed at least annually for the FMAP-related programs. Reviews shall be conducted using information contained in and verification supplied with the review form specified in subrule 75.52(3).

75.52(2) Additional reviews. A redetermination of specific eligibility factors shall be made when:

a. The member reports a change in circumstances (for example, a change in income, as defined at rule 441—75.50(249A)), or

b. A change in the member’s circumstances comes to the attention of a staff member.

75.52(3) Forms.

a. Information for the annual review shall be submitted on Form 470-2881, 470-2881(M), 470-2881(S), or 470-2881(MS), Review/Recertification Eligibility Document (RRED), with the following exceptions:

(1) When the client has completed Form 470-0462 or 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the review document for the annual review.

(2) Information for recertification of family medical assistance-related medically needy shall be submitted on Form 470-3118 or 470-3118(S), Medicaid Review.

b. The department shall supply the review form to the client as needed, or upon request, and shall pay the cost of postage to return the form.

(1) When the review form is issued in the department’s regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department’s regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date the form is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

c. The review information for foster children or children in subsidized adoption or subsidized guardianship shall be submitted on Form 470-2914, Foster Care, Adoption, and Guardianship Medicaid Review.

75.52(4) Client responsibilities. For the purposes of this subrule, “clients” shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The client shall cooperate by giving complete and accurate information needed to establish eligibility.

b. The client shall complete the required review form when requested by the department in accordance with subrule 75.52(3). If the department does not receive a completed form, assistance

shall be canceled. A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1) “f” and 75.57(2) “l.”

c. The client shall report any change in the following circumstances at the annual review or upon the addition of an individual to the eligible group:

- (1) Income from all sources, including any change in care expenses.
- (2) Resources.
- (3) Members of the household.
- (4) School attendance.
- (5) A stepparent recovering from an incapacity.
- (6) Change of mailing or living address.
- (7) Payment of child support.
- (8) Receipt of a social security number.
- (9) Payment for child support, alimony, or dependents as defined in paragraph 75.57(8) “b.”
- (10) Health insurance premiums or coverage.

d. All clients shall timely report any change in the following circumstances at any time:

- (1) Members of the household.
- (2) Change of mailing or living address.
- (3) Sources of income.
- (4) Health insurance premiums or coverage.

e. Clients described at subrule 75.1(35) shall also timely report any change in income from any source and any change in care expenses at any time.

f. A report shall be considered timely when made within ten days from the date:

- (1) A person enters or leaves the household.
- (2) The mailing or living address changes.
- (3) A source of income changes.
- (4) A health insurance premium or coverage change is effective.
- (5) Of any change in income.
- (6) Of any change in care expenses.

g. When a change is not reported as required in paragraphs 75.52(4) “c” through “e,” any excess Medicaid paid shall be subject to recovery.

h. When a change in any circumstance is reported, its effect on eligibility shall be evaluated and eligibility shall be redetermined, if appropriate, regardless of whether the report of the change was required in paragraphs 75.52(4) “c” through “e.”

75.52(5) Effective date. After assistance has been approved, eligibility for continuing assistance shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month, subject to timely notice requirements at rule 441—7.6(217) for any adverse actions.

a. When the change creates ineligibility, eligibility under the current coverage group shall be canceled and an automatic redetermination of eligibility shall be completed in accordance with rule 441—76.11(249A).

b. Rescinded IAB 10/4/00, effective 10/1/00.

c. When an individual included in the eligible group becomes ineligible, that individual’s Medicaid shall be canceled effective the first of the next month unless the action must be delayed due to timely notice requirements at rule 441—7.6(217).

[ARC 8260B, IAB 11/4/09, effective 1/1/10; ARC 8500B, IAB 2/10/10, effective 3/1/10]

441—75.53(249A) Iowa residency policies specific to FMAP and FMAP-related coverage groups. Notwithstanding the provisions of rule 441—75.10(249A), the following rules shall apply when determining eligibility for persons under FMAP or FMAP-related coverage groups.

75.53(1) Definition of resident. A resident of Iowa is one:

a. Who is living in Iowa voluntarily with the intention of making that person’s home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis.

Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

b. Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the specified relative is a resident.

75.53(2) Retention of residence. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

75.53(3) Suitability of home. The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

75.53(4) Absence from the home.

a. An individual who is absent from the home shall not be included in the eligible group, except as described in paragraph “*b.*”

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician’s statement. Failure to return within one year from the date of entry into the medical institution will result in the individual’s needs being removed from the eligible group.

(2) A child is out of the home to secure education or training as defined in paragraph 75.54(1) “*b*” as long as the child remains a dependent.

(3) A parent or specified relative is temporarily out of the home to secure education or training and was in the eligible group before leaving the home to secure education or training. For this purpose, “education or training” means any academic or vocational training program that prepares a person for a specific professional or vocational area of employment.

(4) An individual is out of the home for reasons other than reasons in subparagraphs 75.53(4) “*b*”(1) through (3) and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual’s needs being removed from the eligible group.

[ARC 0579C, IAB 2/6/13, effective 4/1/13]

441—75.54(249A) Eligibility factors specific to child.

75.54(1) Age. Unless otherwise specified at rule 441—75.1(249A), Medicaid shall be available to a needy child under the age of 18 years without regard to school attendance.

a. A child is eligible for the entire month in which the child’s eighteenth birthday occurs, unless the birthday falls on the first day of the month.

b. Medicaid shall also be available to a needy child aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19 if the following criteria are met.

(1) A child shall be considered attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A child shall also be considered to be in regular attendance in months when the child is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a child's education is temporarily interrupted pending adjustment of an education or training program, exemption shall be continued for a reasonable period of time to complete the adjustment.

75.54(2) *Residing with a relative.* The child shall be living in the home of one of the relatives specified in subrule 75.55(1). When the mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

75.54(3) *Deprivation of parental care and support.* Rescinded IAB 11/1/00, effective 1/1/01.

75.54(4) *Continuous eligibility for children.* Rescinded IAB 11/5/08, effective 11/1/08.

441—75.55(249A) Eligibility factors specific to specified relatives.

75.55(1) *Specified relationship.*

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father or adoptive father.

Mother or adoptive mother.

Grandfather or grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather or adoptive grandfather.

Grandmother or grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother or adoptive grandmother.

Great-grandfather or great-great-grandfather.

Great-grandmother or great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother, brother-of-half-blood, stepbrother, brother-in-law or adoptive brother.

Sister, sister-of-half-blood, stepsister, sister-in-law or adoptive sister.

Uncle or aunt, of whole or half blood.

Uncle-in-law or aunt-in-law.

Great uncle or great-great-uncle.

Great aunt or great-great-aunt.

First cousins, nephews, or nieces.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

75.55(2) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity as provided in rule 441—75.14(249A).

a. When necessary to establish eligibility, the department shall make the initial contact with the absent parent at the time of application. Subsequent contacts may be made by the child support recovery unit.

b. When contact with the family or other sources of information indicates that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected

to contribute, the department shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

[ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.56(249A) Resources.

75.56(1) Limitation. Unless otherwise specified, a client may have the following resources and be eligible for the family medical assistance program (FMAP) or FMAP-related programs. Any resource not specifically exempted shall be counted toward the applicable resource limit when determining eligibility for adults. All resources shall be disregarded when determining eligibility for children.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the client. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at paragraph 75.56(1) “*n*” or “*o*,” the net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one’s home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

d. One motor vehicle per household. If the household includes more than one adult or working teenaged child whose resources must be considered as described in subrule 75.56(2), an equity not to exceed a value of \$3,000 in one additional motor vehicle shall be disregarded for each additional adult or working teenaged child.

(1) The disregard for an additional motor vehicle shall be allowed when a working teenager is temporarily absent from work.

(2) The equity value of any additional motor vehicle in excess of \$3,000 shall be counted toward the resource limit in paragraph 75.56(1) “*e*.” When a motor vehicle is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle.

(3) Beginning July 1, 1994, and continuing in succeeding state fiscal years, the motor vehicle equity value to be disregarded shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

e. A reserve of other property, real or personal, not to exceed \$2,000 for applicant assistance units and \$5,000 for member assistance units. EXCEPTION: Applicant assistance units that contain at least one person who was a Medicaid member in Iowa in the month before the month of application are subject to the \$5,000 limit. Resources of the assistance unit shall be determined in accordance with persons considered, as described at subrule 75.56(2).

f. Money which is counted as income for the month and that part of lump-sum income defined at paragraph 75.57(9) “*c*” reserved for the current or future month’s income.

g. Payments which are exempted for consideration as income and resources under subrule 75.57(6).

h. An equity not to exceed \$1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of \$1,500 shall be counted toward resource limits unless it is established that the funeral contract or burial trust is irrevocable.

i. One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

j. Settlements for payment of medical expenses.

k. Life estates.

l. Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

m. The balance in an individual development account (IDA), including interest earned on the IDA.

n. An equity not to exceed \$10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in calculating whether the eligible group's property is within the reserve defined in paragraph "e."

o. Nonhomestead property that produces income consistent with the property's fair market value.

75.56(2) *Persons considered.*

a. Resources of persons in the eligible group shall be considered in establishing property limits.

b. Resources of the parent who is living in the home with the eligible children but who is not eligible for Medicaid shall be considered in the same manner as if the parent were eligible for Medicaid.

c. Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

d. The resources of supplemental security income (SSI) members shall not be counted in establishing property limitations. When property is owned by both the SSI beneficiary and a Medicaid member in another eligible group, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

e. The resources of a nonparental specified relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

75.56(3) *Homestead defined.* The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½ acre in area. When outside a city plat it shall not contain, in the aggregate, more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 75.56(5).

75.56(4) *Liquidation.* When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the member is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

b. Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 75.57(1) "d" and 75.57(7) "ag." The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

75.56(5) *Net market value defined.* Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

75.56(6) *Availability.*

a. A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant or member owns the property in part or in full and has control over it. That is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant or member has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

b. Rescinded IAB 6/30/99, effective 9/1/99.

c. When property is owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the property.

d. When the applicant or member owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

75.56(7) *Damage judgments and insurance settlements.*

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant or member the month following the month the payment was received. When the applicant or member signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

75.56(8) *Conservatorships.*

a. Conservatorships established prior to February 9, 1994. The department shall determine whether assets from a conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the order establishing the conservatorship.

(1) Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

(2) When the department worker questions whether the funds in a conservatorship are available, the worker shall refer the conservatorship to the central office. When assets in the conservatorship are not clearly available, central office staff may contact the conservator and request that the funds in the conservatorship be made available for current support and maintenance. When the conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(3) Funds in a conservatorship that are not clearly available shall be considered unavailable until the conservator or court actually makes the funds available.

(4) Payments received from the conservatorship for basic or special needs are considered income.

b. Conservatorships established on or after February 9, 1994. Conservatorships established on or after February 9, 1994, shall be treated according to the provisions of paragraphs 75.24(1) "e" and 75.24(2) "b."

75.56(9) *Not considered a resource.* Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint, and seed. Capital assets are those assets which, if sold at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, inventory or supplies retained by the household shall not be considered a resource.

441—75.57(249A) *Income.* When determining initial and ongoing eligibility for the family medical assistance program (FMAP) and FMAP-related Medicaid coverage groups, all unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered.

1. Unless otherwise specified at rule 441—75.1(249A), the determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income received by the eligible group and available to meet the current month's needs is no more than 185 percent of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); (2) the countable net earned and unearned income is less than the schedule

of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 2); and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the schedule of basic needs as identified at subrule 75.58(2) for the eligible group (Test 3).

2. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); and (2) countable net unearned and earned income is less than the schedule of basic needs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 3).

3. Child support assigned to the department in accordance with 441—subrule 41.22(7) shall be considered unearned income for the purpose of determining continuing eligibility, except as specified at paragraphs 75.57(1) “e,” 75.57(6) “u,” and 75.57(7) “o.” Expenses for care of children or disabled adults, deductions, and diversions shall be allowed when verification is provided.

75.57(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. Social security income is the amount of the entitlement before withholding of a Medicare premium.

b. Financial assistance received for education or training. Rescinded IAB 2/11/98, effective 2/1/98.

c. Rescinded IAB 2/11/98, effective 2/1/98.

d. When the client sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined in subrule 75.56(4). The interest portion of the payment is considered a resource the month following the month of receipt.

e. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment, for a member of the eligible group, made while the application is pending shall be treated as unearned income.

(2) Support payments shall be considered as unearned income in the month in which the IV-A agency (income maintenance) is notified of the payment by the IV-D agency (child support recovery unit).

The amount of income to consider shall be the actual amount paid or the monthly entitlement, whichever is less.

(3) Support payments reported by child support recovery during a past month for which eligibility is being determined shall be used to determine eligibility for the month. Support payments anticipated to be received in future months shall be used to determine eligibility for future months. When support payments terminate in the month of decision of an FMAP-related Medicaid application, both support payments already received and support payments anticipated to be received in the month of decision shall be used to determine eligibility for that month.

(4) When the reported support payment, combined with other income, creates ineligibility under the current coverage group, an automatic redetermination of eligibility shall be conducted in accordance with the provisions of rule 441—76.11(249A). Persons receiving Medicaid under the family medical assistance program in accordance with subrule 75.1(14) may be entitled to continued coverage under the provisions of subrule 75.1(21). Eligibility may be reestablished for any month in which the countable support payment combined with other income meets the eligibility test.

f. The client shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—75.50(249A).

(1) When the information is available, the department shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the department uses this

information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.

(2) When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy before the eligibility month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), applicable to the eligibility month, whichever is later.

75.57(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the net profit from self-employment, defined as gross income less the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, considered in determining eligibility is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include work-related expenses other than child care. These expenses shall include, but are not limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations.

(1) Persons in the eligible group and excluded parents shall be allowed care expenses for a child or incapacitated adult in the eligible group.

(2) Stepparents as described at paragraph 75.57(8)“*b*” and self-supporting parents on underage parent cases as described at paragraph 75.57(8)“*c*” shall be allowed incapacitated adult care or child care expenses for the ineligible dependents of the stepparent or self-supporting parent.

(3) Unless both parents are in the home and one parent is physically and mentally able to provide the care, child care or care for an incapacitated adult shall be considered a work expense in the amount paid for care of each child or incapacitated adult, not to exceed \$175 per month, or \$200 per month for a child under the age of two, or the going rate in the community, whichever is less.

(4) If both parents are in the home, adult or child care expenses shall not be allowed when one parent is unemployed and is physically and mentally able to provide the care.

(5) The deduction is allowable only when the care covers the actual hours of the individual’s employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(6) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(7) If the amount claimed is questionable, the expense shall be verified by a receipt or a statement from the provider of care. The expense shall be allowed when paid to any person except a parent or legal guardian of the child, another member of the eligible group, or any person whose needs are met by diversion of income from any person in the eligible group.

c. Work incentive disregard. After deducting the allowable work-related expenses as defined at paragraphs 75.57(2)“*a*” and “*b*” and income diversions as defined at subrule 75.57(4), 58 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each person whose income must be considered is disregarded in determining eligibility for the family medical assistance program (FMAP) and those FMAP-related coverage groups subject to the three-step process for determining initial eligibility as described at rule 441—75.57(249A).

(1) The work incentive disregard is not time-limited.

(2) Initial eligibility under the first two steps of the three-step process is determined without the application of the work incentive disregard as described at subparagraphs 75.57(9)“*a*”(2) and (3).

(3) A person who is not eligible for Medicaid because the person has refused to cooperate in applying for or accepting benefits from other sources, in accordance with the provisions of rule 441—75.2(249A), 441—75.3(249A), or 441—75.21(249A), is eligible for the work incentive disregard.

d. Rescinded IAB 6/30/99, effective 9/1/99.

e. A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person's own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

f. The net profit from self-employment income in a non-home-based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent, the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

g. When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:

(1) Shelter expense in excess of that set forth on the chart of basic needs components at subrule 75.58(2) for the eligible group.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components at subrule 75.58(2).

(3) Ten percent of gross rentals to cover the cost of upkeep.

h. In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:

(1) \$41 plus an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder.

(2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

i. Gross income from providing child care in the applicant's or member's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

(1) In determining profit from providing child care services in the applicant's or member's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the applicant or member requests to have actual expenses in excess of the 40 percent considered.

(2) When the applicant or member requests to have expenses in excess of the 40 percent considered, profit shall be determined in the same manner as specified at paragraph 75.57(2) "j."

j. In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services, the following expenses shall be deducted from the income received:

- (1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.
- (2) Wages, commissions, and mandated costs relating to the wages for employees.
- (3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.
- (4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.
- (5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

k. Rescinded IAB 6/30/99, effective 9/1/99.

l. The applicant or member shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—75.50(249A). A self-employed applicant or member shall keep any records necessary to establish eligibility.

75.57(3) *Shared living arrangements.* When an applicant or member shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the applicant or member, exclusively for the applicant's or member's needs, are considered income.

75.57(4) *Diversion of income.*

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent living in the family group who meet the age and school attendance requirements specified in subrule 75.54(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent and a companion in the home only when the income and resources of the companion and the children are within family medical assistance program standards. The maximum income that shall be diverted to meet the needs of the ineligible children shall be the difference between the needs of the eligible group if the ineligible children were included and the needs of the eligible group with the ineligible children excluded, except as specified at paragraph 75.57(8) "b."

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

75.57(5) *Income of unmarried specified relatives under the age of 19.*

a. Income of the unmarried specified relative under the age of 19 when that specified relative lives with a parent who receives coverage under family medical assistance-related programs or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Income of the unmarried specified relative under the age of 19 who lives in the same home as a self-supporting parent. The income of the unmarried specified relative under the age of 19 living in the same home as a self-supporting parent shall be treated in accordance with subparagraphs (1), (2), and (3) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative

had attained majority. The income of the specified relative's self-supporting parents shall be treated in accordance with paragraph 75.57(8) "c."

(3) When the unmarried specified relative is 18 years of age, the specified relative's income shall be treated in the same manner as though the specified relative had attained majority.

75.57(6) Exempt as income and resources. The following shall be exempt as income and resources:

a. Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

b. The value of the food assistance program benefit.

c. The value of the United States Department of Agriculture donated foods (surplus commodities).

d. The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

e. Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

f. Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

g. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

h. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

i. Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

j. Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

k. Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

l. Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.

m. The income of a supplemental security income recipient.

n. Income of an ineligible child.

o. Income in-kind.

p. Family support subsidy program payments.

q. Grants obtained and used under conditions that preclude their use for current living costs.

r. All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 75.55(1), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.

s. Subsidized guardianship program payments.

t. Any income restricted by law or regulation which is paid to a representative payee living outside the home, unless the income is actually made available to the applicant or member by the representative payee.

u. The first \$50 received by the eligible group which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed \$50 per month per eligible group.

v. Bona fide loans. Evidence of a bona fide loan may include any of the following:

(1) The loan is obtained from an institution or person engaged in the business of making loans.

(2) There is a written agreement to repay the money within a specified time.

(3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.

w. Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

x. The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.

y. Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.

z. Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."

aa. Payments received from the Radiation Exposure Compensation Act.

ab. Deposits into an individual development account (IDA) when determining eligibility. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. Deposits shall be deducted from nonexempt earned and unearned income beginning with the month following the month in which verification that deposits have begun is received. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions at paragraphs 75.57(2) "a," "b," and "c" shall be applied to nonexempt earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

75.57(7) Exempt as income. The following are exempt as income.

a. Reimbursements from a third party.

b. Reimbursement from the employer for a job-related expense.

c. The following nonrecurring lump sum payments:

(1) Income tax refund.

(2) Retroactive supplemental security income benefits.

(3) Settlements for the payment of medical expenses.

(4) Refunds of security deposits on rental property or utilities.

(5) That part of a lump sum received and expended for funeral and burial expenses.

(6) That part of a lump sum both received and expended for the repair or replacement of resources.

d. Payments received by the family for providing foster care when the family is operating a licensed foster home.

e. A small monetary nonrecurring gift, such as a Christmas, birthday or graduation gift, not to exceed \$30 per person per calendar quarter.

When a monetary gift from any one source is in excess of \$30, the total gift is countable as unearned income. When monetary gifts from several sources are each \$30 or less, and the total of all gifts exceeds \$30, only the amount in excess of \$30 is countable as unearned income.

f. Federal or state earned income tax credit.

g. Supplementation from county funds, providing:

(1) The assistance does not duplicate any of the basic needs as recognized by the chart of basic needs components in accordance with subrule 75.58(2), or

(2) The assistance, if a duplication of any of the basic needs, is made on an emergency basis, not as ongoing supplementation.

h. Any payment received as a result of an urban renewal or low-cost housing project from any governmental agency.

i. A retroactive corrective family investment program (FIP) payment.

- j.* The training allowance issued by the division of vocational rehabilitation, department of education.
- k.* Payments from the PROMISE JOBS program.
- l.* The training allowance issued by the department for the blind.
- m.* Payments from passengers in a car pool.
- n.* Support refunded by the child support recovery unit for the first month of termination of eligibility and the family does not receive the family investment program.
- o.* Rescinded IAB 10/4/00, effective 10/1/00.
- p.* Rescinded IAB 10/4/00, effective 10/1/00.
- q.* Income of a nonparental relative as defined at subrule 75.55(1) except when the relative is included in the eligible group.
- r.* Rescinded IAB 10/4/00, effective 10/1/00.
- s.* Compensation in lieu of wages received by a child funded through an employment and training program of the U.S. Department of Labor.
- t.* Any amount for training expenses included in a payment funded through an employment and training program of the U.S. Department of Labor.
- u.* Earnings of a person aged 19 or younger who is a full-time student as defined at subparagraphs 75.54(1) "b"(1) and (2). The exemption applies through the entire month of the person's twentieth birthday.

EXCEPTION: When the twentieth birthday falls on the first day of the month, the exemption stops on the first day of that month.

- v.* Income attributed to an unmarried, underage parent in accordance with paragraph 75.57(8) "c" effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or reaches majority through marriage. When the unmarried, underage parent turns 18 on the first day of a month, the income of the self-supporting parents becomes exempt as of the first day of that month.
- w.* Incentive payments received from participation in the adolescent pregnancy prevention programs.
- x.* Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.
- y.* Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.
- z.* Interest and dividend income.
- aa.* Rescinded IAB 10/4/00, effective 10/1/00.
- ab.* Honorarium income. All moneys paid to an eligible household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.
- ac.* Income that an individual contributes to a trust as specified at paragraph 75.24(3) "b" shall not be considered for purposes of determining eligibility for the family medical assistance program (FMAP) or FMAP-related Medicaid coverage groups.
- ad.* Benefits paid to the eligible household under the family investment program (FIP).
- ae.* Moneys received through the pilot self-sufficiency grants program or through the pilot diversion program.

af. Earnings from new employment of any person whose income is considered when determining eligibility during the first four calendar months of the new employment. The date the new employment or self-employment begins shall be verified before approval of the exemption. This four-month period shall be referred to as the work transition period (WTP).

(1) The exempt period starts the first day of the month in which the client receives the first pay from the new employment and continues through the next three benefit months, regardless if the job ends during the four-month period.

(2) To qualify for this disregard, the person shall not have earned more than \$1,200 in the 12 calendar months prior to the month in which the new job begins, the income must be reported timely in

accordance with rule 441—76.10(249A), and the new job must have started after the date the application is filed. For purposes of this policy, the \$1,200 earnings limit applies to the gross amount of income without any allowance for exemptions, disregards, work deductions, diversions, or the costs of doing business used in determining net profit from any income test in rule 441—75.57(249A).

(3) If another new job or self-employment enterprise starts while a WTP is in progress, the exemption shall also be applied to earnings from the new source that are received during the original 4-month period, provided that the earnings were less than \$1,200 in the 12-month period before the month the other new job or self-employment enterprise begins.

(4) An individual is allowed the 4-month exemption period only once in a 12-month period. An additional 4-month exemption shall not be granted until the month after the previous 12-month period has expired.

(5) If a person whose income is considered enters the household, the new job must start after the date the person enters the home or after the person is reported in the home, whichever is later, in order for that person to qualify for the exemption.

(6) When a person living in the home whose income is not considered subsequently becomes an assistance unit member whose income is considered, the new job must start after the date of the change that causes the person's income to be considered in order for that person to qualify for the exemption.

(7) A person who begins new employment or self-employment that is intermittent in nature may qualify for the WTP. "Intermittent" includes, but is not limited to, working for a temporary agency that places the person in different job assignments on an as-needed or on-call basis, or self-employment from providing child care for one or more families. However, a person is not considered as starting new employment or self-employment each time intermittent employment restarts or changes such as when the same temporary agency places the person in a new assignment or a child care provider acquires another child care client.

ag. Payments from property sold under an installment contract as specified in paragraphs 75.56(4) "b" and 75.57(1) "d."

ah. All census earnings received by temporary workers from the Bureau of the Census.

ai. Payments received through participation in the preparation for adult living program pursuant to 441—Chapter 187.

75.57(8) *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

a. Treatment of income in excluded parent cases. A parent who is living in the home with the eligible children but who is not eligible for Medicaid is eligible for the 20 percent earned income deduction, child care expenses for children in the eligible group, the 58 percent work incentive disregard described at paragraphs 75.57(2) "a," "b," and "c," and diversions described at subrule 75.57(4). All remaining nonexempt income of the parent shall be applied against the needs of the eligible group.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group but who is living with the parent in the home of an eligible child shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) through (10) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) The stepparent's monthly nonexempt earned income remaining after the 20 percent earned income deduction shall be allowed child care expenses for the stepparent's ineligible dependents in the home, subject to the restrictions described at subparagraphs 75.57(2) "b"(1) through (5).

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at subrule 75.57(10), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions at subparagraphs 75.57(8) "b"(1) through

(4) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the schedule of needs for a family group of the same composition in accordance with subrule 75.58(2).

(6) The stepparent shall be allowed the 58 percent work incentive disregard from monthly earnings. The disregard shall be applied to earnings that remain after all other deductions at subparagraphs 75.57(8) "b" (1) through (5) have been subtracted from the earnings. However, the work incentive disregard is not allowed when determining initial eligibility as described at subparagraphs 75.57(9) "a" (2) and (3).

(7) The deductions described in subparagraphs (1) through (6) shall first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt, nonrecurring lump sum received by a stepparent shall be considered as income and counted in computing eligibility in the same manner as it would be treated for a parent. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent if that portion is not exempted according to paragraph 75.56(1) "f."

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependents living in the home who are not eligible for FMAP-related Medicaid, the income of the parent may be diverted to meet the unmet needs of the children of the current marriage except as described at subrule 75.57(10).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any children of the parent living in the home who are not eligible for FMAP-related Medicaid shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parents, the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions unless the provisions of rule 441—75.59(249A) apply. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to subparagraphs 75.57(8) "b" (1) through (7). Child care expenses at subparagraph 75.57(8) "b" (2) shall be allowed for the self-supporting parent's ineligible children. Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with subparagraph 75.57(8) "b" (8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to subparagraphs 75.57(8) "b" (1) through (7) unless the provisions of rule 441—75.59(249A) apply. Child care expenses at subparagraph 75.57(8) "b" (2) shall be allowed for the ineligible dependents of the self-supporting spouse who is a stepparent of the minor parent. Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with subparagraph 75.57(8) "b" (8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit. The self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

75.57(9) Budgeting process.

a. Initial and ongoing eligibility. Both initial and ongoing eligibility shall be based on a projection of income based on the best estimate of future income.

(1) Upon application, the department shall use all earned and unearned income received by the eligible group to project future income. Allowable work expenses shall be deducted from earned income, except in determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of initial eligibility is a three-step process as described at rule 441—75.57(249A).

(2) Test 1. When countable gross nonexempt earned and unearned income exceeds 185 percent of the schedule of living costs (Test 1), as identified at subrule 75.58(2) for the eligible group, eligibility does not exist under any coverage group for which these income tests apply. Countable gross income means nonexempt gross income, as defined at rule 441—75.57(249A), without application of any disregards, deductions, or diversions.

(3) Test 2. When the countable gross nonexempt earned and unearned income equals or is less than 185 percent of the schedule of living costs for the eligible group, initial eligibility under the schedule of living costs (Test 2) shall then be determined. Initial eligibility under the schedule of living costs is determined without application of the 58 percent work incentive disregard as specified at paragraph 75.57(2)“c.” All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the schedule of living costs (Test 2) for the eligible group. When countable net earned and unearned income equals or exceeds the schedule of living costs for the eligible group, eligibility does not exist under any coverage group for which these income tests apply.

(4) Test 3. After application of Tests 1 and 2 for initial eligibility or of Test 1 for ongoing eligibility, the 58 percent work incentive disregard at paragraph 75.57(2)“c” shall be applied when there is eligibility for this disregard. When countable net earned and unearned income, after application of the work incentive disregard and all other appropriate exemptions, deductions, and diversions, equals or exceeds the schedule of basic needs (Test 3) for the eligible group, eligibility does not exist under any coverage group for which these tests apply. When the countable net income is less than the schedule of basic needs for the eligible group, the eligible group meets FMAP or CMAP income requirements.

(5) Rescinded IAB 10/4/00, effective 10/1/00.

(6) When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the time period being used and dividing the result by the number of instances of income received in that time period. The result shall be multiplied by four if the income is received weekly, or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

(7) Rescinded IAB 7/4/07, effective 8/1/07.

(8) When a change in circumstances that is required to be timely reported by the client pursuant to paragraphs 75.52(4)“d” and “e” is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change occurred. When a change in circumstances that is required to be reported by the client at annual review or upon the addition of an individual to the eligible group pursuant to paragraph 75.52(4)“c” is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change was required to be reported. All other changes shall be acted upon when they are reported or otherwise become known to the department, allowing for a ten-day notice of adverse action, if required.

b. Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months.

(1) Income received by an individual employed under a contract shall be prorated over the period of the contract.

(2) Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the eligibility determination for the same number of months. EXCEPTION: Periodic or intermittent income from self-employment shall be treated as described at paragraph 75.57(9)“i.”

(3) When the lump-sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a recurring lump sum is received at any time.

c. Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8)“b” and “c,” shall be treated in accordance with this rule. Nonrecurring lump-sum income includes an inheritance, an insurance settlement or tort recovery, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance, or workers’ compensation.

(1) Nonrecurring lump-sum income shall be considered as income in the month of receipt and counted in computing eligibility, unless the income is exempt.

(2) When countable income exclusive of any family investment program grant but including countable lump-sum income exceeds the needs of the eligible group under their current coverage group, the countable lump-sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the total of the lump-sum income and any other countable income received in or projected to be received in the month the lump sum was received by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period is referred to as the period of proration. Any income remaining after this calculation shall be applied as income to the first month following the period of proration and disregarded as income thereafter.

(3) The period of proration shall begin with the month when the nonrecurring lump sum was received, whether or not the receipt of the lump sum was timely reported. If receipt of the lump sum was reported timely and the calculation was completed timely, no recoupment shall be made. If receipt of the lump sum was not reported timely or the calculation was not completed timely, recoupment shall begin with the month of receipt of the nonrecurring lump sum.

(4) The period of proration shall be shortened when:

1. The schedule of living costs as defined at subrule 75.58(2) increases; or
2. A portion of the lump sum is no longer available to the eligible group due to loss or theft or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group; or

3. There is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified.

(5) When countable income, including the lump-sum income, is less than the needs of the eligible group in accordance with the provisions of their current coverage group, the lump sum shall be counted as income for the month of receipt.

(6) For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of proration.

(7) During the period of proration, individuals not in the eligible group when the lump-sum income was received may be eligible as a separate eligible group. Income of this eligible group plus income of the parent or other legally responsible person in the home, excluding the lump-sum income already considered, shall be considered as available in determining eligibility.

d. The third digit to the right of the decimal point in any calculation of income, hours of employment and work expenses for care, as defined at paragraph 75.57(2)“b,” shall be dropped.

e. In any month for which an individual is determined eligible to be added to a currently active family medical assistance (FMAP) or FMAP-related Medicaid case, the individual’s needs, income, and resources shall be included. An individual who is a member of the eligible group and who is determined

to be ineligible for Medicaid shall be canceled prospectively effective the first of the following month if the timely notice of adverse action requirements as provided at 441—subrule 76.4(1) can be met.

f. Rescinded IAB 10/4/00, effective 10/1/00.

g. Rescinded IAB 2/11/98, effective 2/1/98.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net income.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual's annual income shall be averaged over a 12-month period of time, even if the income is received within a short period of time during that 12-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3) through (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3) through (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the department shall recalculate the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

75.57(10) Restriction on diversion of income. Rescinded IAB 7/11/01, effective 9/1/01.

75.57(11) Divesting of income. Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

[ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 8556B, IAB 3/10/10, effective 2/10/10; ARC 9043B, IAB 9/8/10, effective 11/1/10]

441—75.58(249A) Need standards.

75.58(1) Definition of eligible group. The eligible group consists of all eligible persons specified below and living together, except when one or more of these persons have elected to receive supplemental security income under Title XVI of the Social Security Act or are voluntarily excluded in accordance with the provisions of rule 441—75.59(249A). There shall be at least one child, which may be an unborn child, in the eligible group except when the only eligible child is receiving supplemental security income.

a. The following persons shall be included (except as otherwise provided in these rules) without regard to the person's employment status, income or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as caretaker when the parent is in the home but is unable to act as caretaker.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required

CHART OF BASIC NEEDS COMPONENTS
(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	77.14	65.81	47.10	35.20	31.74	26.28	25.69	22.52	20.91	20.58
Utilities	19.29	16.45	11.77	8.80	7.93	6.57	6.42	5.63	5.23	5.14
Household Supplies	4.27	5.33	4.01	3.75	3.36	3.26	3.10	3.08	2.97	2.92
Food	34.49	44.98	40.31	39.11	36.65	37.04	34.00	33.53	32.87	32.36
Clothing	11.17	11.49	8.70	8.75	6.82	6.84	6.54	6.39	6.20	6.10
Pers. Care & Supplies	3.29	3.64	2.68	2.38	2.02	1.91	1.82	1.72	1.67	1.64
Med. Chest Supplies	.99	1.40	1.34	1.13	1.15	1.11	1.08	1.06	1.09	1.08
Communications	7.23	6.17	3.85	3.25	2.50	2.07	1.82	1.66	1.51	1.49
Transportation	25.13	25.23	22.24	21.38	17.43	16.59	15.24	15.79	15.44	15.19

- a. The definitions of the basic need components are as follows:
- (1) Shelter: Rental, taxes, upkeep, insurance, amortization.
 - (2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.
 - (3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.
 - (4) Food: Including school lunches.
 - (5) Clothing: Including layette, laundry, dry cleaning.
 - (6) Personal care and supplies: Including regular school supplies.
 - (7) Medicine chest items.
 - (8) Communications: Telephone, newspapers, magazines.
 - (9) Transportation: Including bus fares.
- b. Special situations in determining eligible group:
- (1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving Medicaid for the relative's own children.
 - (2) When the unmarried specified relative under the age of 19 is living in the same home with a parent or parents who receive Medicaid, the needs of the specified relative, when eligible, shall be included in the same eligible group with the parents. When the specified relative is a parent, the needs of the eligible children for whom the unmarried parent is caretaker shall be included in the same eligible group. When the specified relative is a nonparental relative, the needs of the eligible children for whom the specified relative is caretaker shall be considered a separate eligible group.
- When the unmarried specified relative under the age of 19 is living in the same home as a parent who receives Medicaid but the specified relative is not an eligible child, need of the specified relative shall be determined in the same manner as though the specified relative had attained majority.
- When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.
- When the unmarried specified relative is under the age of 18 and living in the same home with a parent who does not receive Medicaid, the needs of the specified relative, when eligible, shall be included in the eligible group with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined at subrule 75.55(1), only the needs of the eligible children shall be included in the eligible group. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, the person, income and resources shall not be considered in determining eligibility for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of Medicaid, the eligibility shall be computed on the basis of their comprising one eligible group.

(5) When a child is ineligible for Medicaid, the income and resources of that child are not used in determining eligibility of the eligible group and the ineligible child is not a part of the household size. However, the income and resources of a parent who is ineligible for Medicaid are used in determining eligibility of the eligible group and the ineligible parent is counted when determining household size.

441—75.59(249A) Persons who may be voluntarily excluded from the eligible group when determining eligibility for the family medical assistance program (FMAP) and FMAP-related coverage groups.

75.59(1) Exclusions from the eligible group. In determining eligibility under the family medical assistance program (FMAP) or any FMAP-related Medicaid coverage group in this chapter, the following persons may be excluded from the eligible group when determining Medicaid eligibility of other household members.

- a. Siblings (of whole or half blood, or adoptive) of eligible children.
- b. Self-supporting parents of minor unmarried parents.
- c. Stepparents of eligible children.
- d. Children living with a specified relative, as listed at subrule 75.55(1).

75.59(2) Needs, income, and resource exclusions. The needs, income, and resources of persons who are voluntarily excluded shall also be excluded. If a self-supporting parent of a minor unmarried parent is voluntarily excluded, then the minor unmarried parent shall not be counted in the household size when determining eligibility for the minor unmarried parent's child. However, the income and resources of the minor unmarried parent shall be used in determining eligibility for the unmarried minor parent's child. If a stepparent is voluntarily excluded, the natural or adoptive parent shall not be counted in the household size when determining eligibility for the natural or adoptive parent's children. However, the income and resources of the natural or adoptive parent shall be used in determining eligibility for the natural or adoptive parent's children.

75.59(3) Medicaid entitlement. Persons whose needs are voluntarily excluded from the eligibility determination shall not be entitled to Medicaid under this or any other coverage group.

75.59(4) Situations where parent's needs are excluded. In situations where the parent's needs are excluded but the parent's income and resources are considered in the eligibility determination (e.g., minor unmarried parent living with self-supporting parents), the excluded parent shall be allowed the earned income deduction, child care expenses and the work incentive disregard as provided at paragraphs 75.57(2) "a," "b," and "c."

75.59(5) Situations where child's needs, income, and resources are excluded. In situations where the child's needs, income, and resources are excluded from the eligibility determination pursuant to subrule 75.59(1), and the child's income is not sufficient to meet the child's needs, the parent shall be allowed to divert income to meet the unmet needs of the excluded child. The maximum amount to be diverted shall be the difference between the schedule of basic needs of the eligible group with the child included and the schedule of basic needs with the child excluded, in accordance with the provisions of subrule 75.58(2), minus any countable income of the child.

441—75.60(249A) Pending SSI approval. When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the eligible group pending approval of supplemental security income.

441—75.61 to 75.69 Reserved.

DIVISION III
FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)

441—75.70(249A) Financial eligibility based on modified adjusted gross income (MAGI). Notwithstanding any other provision of this chapter, effective January 1, 2014, financial eligibility for medical assistance shall be determined using “modified adjusted gross income” (MAGI) and “household income” pursuant to 42 U.S.C. § 1396a(e)(14), to the extent required by that section as a condition of federal funding under Title XIX of the Social Security Act. For this purpose, financial eligibility for medical assistance includes any applicable purpose for which a determination of income is required, including the imposition of any premiums or cost sharing. From January 1, 2014, through June 30, 2014, subject to a waiver of the requirements of 42 U.S.C. § 1396a(e)(14) by the federal Centers for Medicare and Medicaid Services, use of MAGI and “household income” shall not be considered to be required by that section for persons otherwise eligible for family planning services under subrule 75.1(41).

[ARC 1134C, IAB 10/30/13, effective 10/2/13; ARC 1212C, IAB 12/11/13, effective 1/1/14; ARC 1356C, IAB 3/5/14, effective 4/9/14]

441—75.71(249A) Income limits. Notwithstanding any other provision of this chapter, effective January 1, 2014, the following income limits apply to the following coverage groups, as identified by the legal references provided:

Coverage Group	Legal Reference	Household Size (persons)	Income Limit (per month)
Family Medical Assistance Program and Child Medical Assistance Program	441—subrule 75.1(14) and 441—subrule 75.1(15); 42 CFR Part 435.110; Title XIX of the Social Security Act, Section 1931	1	\$447
		2	\$716
		3	\$872
		4	\$1,033
		5	\$1,177
		6	\$1,330
		7	\$1,481
		8	\$1,633
		9	\$1,784
		10	\$1,950
			over 10
Mothers and Children, for pregnant women and for infants under one year of age	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		375% of the federal poverty level for the household
Mothers and Children, for children aged 1 through 18 years	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		167% of the federal poverty level for the household
Medicaid for Independent Young Adults	441—subrule 75.1(42); Title XIX of the Social Security Act, Section 1902(a)(10)(A)(ii)(VII)		254% of the federal poverty level for the household

[ARC 1134C, IAB 10/30/13, effective 10/2/13; ARC 1212C, IAB 12/11/13, effective 1/1/14; ARC 1356C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code section 249A.4.

[Filed 3/11/70; amended 12/17/73, 5/16/74, 7/1/74]

- [Filed emergency 1/16/76—published 2/9/76, effective 2/1/76]
- [Filed emergency 1/29/76—published 2/9/76, effective 1/29/76]
- [Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]
- [Filed 1/31/77, Notice 12/1/76—published 2/23/77, effective 3/30/77]
- [Filed 4/13/77, Notice 11/3/76—published 5/4/77, effective 6/8/77]
- [Filed emergency 6/22/77—published 7/13/77, effective 7/1/77]
- [Filed 12/6/77, Notice 10/19/77—published 12/28/77, effective 2/1/78]
- [Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]
- [Filed emergency 7/28/78 after Notice 4/19/78—published 8/23/78, effective 7/28/78]
- [Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
- [Filed 2/2/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]
- [Filed 6/5/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]
- [Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]
- [Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 9/26/79]
- [Filed emergency 5/5/80—published 5/28/80, effective 5/5/80]
- [Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
- [Filed without Notice 9/25/80—published 10/15/80, effective 12/1/80]
- [Filed 12/19/80, Notice 10/15/80—published 1/7/81, effective 2/11/81]
- [Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
- [Filed 9/25/81, Notice 7/22/81—published 10/14/81, effective 11/18/81]
- [Filed 1/28/82, Notice 10/28/81—published 2/17/82, effective 4/1/82]
- [Filed 1/28/82, Notice 12/9/81—published 2/17/82, effective 4/1/82]
- [Filed emergency 3/26/82—published 4/14/82, effective 4/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 6/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
- [Filed emergency 7/30/82—published 8/18/82, effective 8/1/82]
- [Filed 9/23/82, Notices 6/9/82, 8/4/82—published 10/13/82, effective 12/1/82]
- [Filed emergency 3/18/83—published 4/13/83, effective 4/1/83]
- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 10/1/83]
- [Filed 10/28/83, Notice 9/14/83—published 11/23/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed emergency 1/13/84—published 2/1/84, effective 2/8/84]
- [Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
- [Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]
- [Filed emergency 1/17/85—published 2/13/85, effective 1/17/85]
- [Filed without Notice 1/22/85—published 2/13/85, effective 4/1/85]
- [Filed emergency 3/22/85—published 4/10/85, effective 4/1/85]
- [Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]
- [Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
- [Filed 10/1/85, Notice 7/31/85—published 10/23/85, effective 12/1/85]
- [Filed 2/21/86, Notice 1/15/86—published 3/12/86, effective 5/1/86]
- [Filed emergency 3/21/86 after Notice 2/12/86—published 4/9/86, effective 4/1/86]
- [Filed emergency 4/28/86—published 5/21/86, effective 5/1/86]
- [Filed emergency 8/28/86—published 9/24/86, effective 9/1/86]
- [Filed 9/5/86, Notice 6/18/86—published 9/24/86, effective 11/1/86]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed without Notice 1/15/87—published 2/11/87, effective 4/1/87]
- [Filed 3/3/87, Notice 12/31/86—published 3/25/87, effective 5/1/87]
- [Filed 3/26/87, Notice 2/11/87—published 4/22/87, effective 6/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]

- [Filed emergency 5/29/87 after Notice 4/22/87—published 6/17/87, effective 7/1/87]
 - [Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
- [Filed emergency after Notice 9/24/87, Notice 8/12/87—published 10/21/87, effective 10/1/87]
 - [Filed 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
- [Filed emergency after Notice 10/23/87, Notice 9/9/87—published 11/18/87, effective 11/1/87]
 - [Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 1/1/88]
 - [Filed 1/21/88, Notice 12/16/87—published 2/10/88, effective 4/1/88]
 - [Filed emergency 3/16/88—published 4/6/88, effective 3/16/88]
 - [Filed 3/17/88, Notice 1/13/88—published 4/6/88, effective 6/1/88]
 - [Filed emergency 4/22/88—published 5/18/88, effective 5/1/88]
 - [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
 - [Filed 6/9/88, Notice 4/20/88—published 6/29/88, effective 9/1/88]
 - [Filed 8/4/88, Notices 6/29/88^o—published 8/24/88, effective 10/1/88]
 - [Filed without Notice 9/21/88—published 10/19/88, effective 12/1/88]
 - [Filed 10/27/88, Notice 8/24/88—published 11/16/88, effective 1/1/89]
 - [Filed emergency 11/14/88—published 11/30/88, effective 11/14/88]
- [Filed emergency 12/8/88 after Notices 10/19/88, 11/2/88—published 12/28/88, effective 1/1/89]
 - [Filed emergency 4/13/89 after Notice 3/8/89—published 5/3/89, effective 5/1/89]
 - [Filed 4/13/89, Notice 2/22/89—published 5/3/89, effective 7/1/89]
 - [Filed 5/10/89, Notice 4/5/89—published 5/31/89, effective 8/1/89]
 - [Filed emergency 6/9/89 after Notice 5/3/89—published 6/28/89, effective 7/1/89]
 - [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
 - [Filed 7/14/89, Notices 4/19/89, 5/31/89—published 8/9/89, effective 10/1/89]
 - [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
 - [Filed emergency 10/10/89—published 11/1/89, effective 12/1/89]
 - [Filed 10/10/89, Notice 8/23/89—published 11/1/89, effective 1/1/90]
 - [Filed 12/19/89, Notice 11/1/89—published 1/10/90, effective 3/1/90]
 - [Filed emergency 1/10/90—published 2/7/90, effective 1/10/90]
 - [Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
 - [Filed emergency 2/16/90—published 3/7/90, effective 4/1/90]
 - [Filed without Notice 2/16/90—published 3/7/90, effective 5/1/90]
 - [Filed emergency 3/14/90—published 4/4/90, effective 3/14/90]
 - [Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]
 - [Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
 - [Filed emergency 6/13/90—published 7/11/90, effective 6/14/90]
 - [Filed emergency 6/20/90 after Notice 4/18/90—published 7/11/90, effective 7/1/90]
 - [Filed 7/13/90, Notice 5/16/90—published 8/8/90, effective 10/1/90]
 - [Filed emergency 8/16/90 after Notice of 6/27/90—published 9/5/90, effective 10/1/90]
 - [Filed 8/16/90, Notices 6/13/90, 7/11/90—published 9/5/90, effective 11/1/90]
 - [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
 - [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
 - [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
 - [Filed 3/14/91, Notice 1/23/91—published 4/3/91, effective 6/1/91]
 - [Filed emergency 4/11/91—published 5/1/91, effective 4/11/91]
 - [Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]
 - [Filed emergency 5/17/91 after Notice 4/3/91—published 6/12/91, effective 7/1/91]
 - [Filed 5/17/91, Notices 4/3/90^o—published 6/12/91, effective 8/1/91]
 - [Filed emergency 6/14/91 after Notice 5/1/91—published 7/10/91, effective 7/1/91]
 - [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
 - [Filed 8/8/91, Notice 6/26/91—published 9/4/91, effective 11/1/91]
 - [Filed emergency 9/18/91 after Notice 4/17/91—published 10/16/91, effective 10/1/91]
 - [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]

- [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed emergency 12/11/91 after Notice 10/30/91—published 1/8/92, effective 1/1/92]
- [Filed 12/11/92, Notice 10/16/91—published 1/8/92, effective 3/1/92]¹
- [Filed 1/15/92, Notice 11/13/91—published 2/5/92, effective 4/1/92]
- [Filed 2/13/92, Notices 1/8/92^o—published 3/4/92, effective 5/1/92]
- [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 4/16/92 after Notice 2/19/92—published 5/13/92, effective 5/1/92]
- [Filed emergency 5/14/92 after Notice 3/18/92—published 6/10/92, effective 7/1/92]
- [Filed 5/14/92, Notices 3/18/92^o—published 6/10/92, effective 8/1/92]
- [Filed 6/11/92, Notice 4/29/92—published 7/8/92, effective 9/1/92]
- [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
- [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
- [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
- [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed emergency 1/14/93 after Notice 10/28/92—published 2/3/93, effective 2/1/93]
- [Filed 1/14/93, Notices 10/28/92, 11/25/92, 12/9/92—published 2/3/93, effective 4/1/93]
- [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
- [Filed 4/15/93, Notice 2/17/93—published 5/12/93, effective 7/1/93]
- [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
- [Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed without Notice 12/16/93—published 1/5/94, effective 2/9/94]
- [Filed 12/16/93, Notices 10/13/93, 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notices 12/8/93, 1/5/94^o—published 3/2/94, effective 5/1/94]
- [Filed 3/10/94, Notice 2/2/94—published 3/30/94, effective 6/1/94]
- [Filed 4/14/94, Notice 2/16/94—published 5/11/94, effective 7/1/94]
- [Filed 5/11/94, Notice 3/16/94—published 6/8/94, effective 8/1/94]
- [Filed 6/16/94, Notice 4/27/94—published 7/6/94, effective 9/1/94]
- [Filed 9/15/94, Notice 8/3/94—published 10/12/94, effective 11/16/94]
- [Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 12/15/94, Notices 10/26/94, 11/9/94—published 1/4/95, effective 3/1/95]
- [Filed 2/16/95, Notices 11/23/94, 12/21/94, 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed 4/13/95, Notices 2/15/95, 3/1/95—published 5/10/95, effective 7/1/95]
- [Filed emergency 9/25/95—published 10/11/95, effective 10/1/95]
- [Filed 11/16/95, Notices 9/27/95, 10/11/95—published 12/6/95, effective 2/1/96]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed 4/10/96, Notice 2/14/96—published 5/8/96, effective 7/1/96]
- [Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
- [Filed 10/9/96, Notice 8/28/96—published 11/6/96, effective 1/1/97]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]^o
- [Filed 12/12/96, Notices 9/11/96, 10/9/96—published 1/1/97, effective 3/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
- [Filed 4/11/97, Notice 2/26/97—published 5/7/97, effective 7/1/97]

- [Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
- [Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 12/10/97 after Notices 10/22/97, 11/5/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98][◊]
- [Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
- [Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed emergency 6/25/98—published 7/15/98, effective 7/1/98]
- [Filed 7/15/98, Notices 6/3/98—published 8/12/98, effective 10/1/98]
- [Filed 8/12/98, Notices 6/17/98, 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
- [Filed 3/10/99, Notice 1/27/99—published 4/7/99, effective 7/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed 5/14/99, Notice 4/7/99—published 6/2/99, effective 8/1/99]
- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
- [Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]
- [Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed emergency 11/10/99 after Notice 10/6/99—published 12/1/99, effective 12/1/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]
- [Filed 12/8/99, Notice 10/6/99—published 12/29/99, effective 3/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00][◊]
- [Filed emergency 3/8/00—published 4/5/00, effective 4/1/00]
- [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
- [Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
- [Filed emergency 6/8/00 after Notice 4/19/00—published 6/28/00, effective 7/1/00]
- [Filed 6/8/00, Notice 4/5/00—published 6/28/00, effective 9/1/00]
- [Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
- [Filed emergency 9/12/00 after Notice 7/12/00—published 10/4/00, effective 10/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]
- [Filed emergency 12/14/00—published 1/10/01, effective 1/1/01]
- [Filed 2/14/01, Notice 1/10/01—published 3/7/01, effective 5/1/01]
- [Filed emergency 6/13/01—published 7/11/01, effective 7/1/01][◊]
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01][◊]
- [Filed 10/10/01, Notice 8/22/01—published 10/31/01, effective 1/1/02]
- [Filed emergency 12/12/01—published 1/9/02, effective 1/1/02]
- [Filed 1/9/02, Notice 11/14/01—published 2/6/02, effective 4/1/02]
- [Filed 2/14/02, Notice 12/26/01—published 3/6/02, effective 5/1/02]
- [Filed 2/14/02, Notice 1/9/02—published 3/6/02, effective 5/1/02]
- [Filed 3/13/02, Notice 1/23/02—published 4/3/02, effective 6/1/02][◊]
- [Filed emergency 6/13/02—published 7/10/02, effective 7/1/02]
- [Filed 10/10/02, Notice 8/21/02—published 10/30/02, effective 1/1/03]
- [Filed emergency 12/12/02—published 1/8/03, effective 1/1/03][◊]

- [Filed emergency 1/9/03 after Notice 11/27/02—published 2/5/03, effective 2/1/03]
 - [Filed 1/9/03, Notice 11/27/02—published 2/5/03, effective 4/1/03]
 - [Filed emergency 3/14/03—published 4/2/03, effective 4/1/03]
 - [Filed without Notice 5/16/03—published 6/11/03, effective 7/16/03]
 - [Filed 9/22/03, Notice 7/9/03—published 10/15/03, effective 12/1/03]
 - [Filed emergency 10/10/03—published 10/29/03, effective 10/10/03]
 - [Filed emergency 10/10/03—published 10/29/03, effective 11/1/03]
 - [Filed 10/10/03, Notice 8/20/03—published 10/29/03, effective 1/1/04]
 - [Filed emergency 11/19/03—published 12/10/03, effective 1/1/04]
 - [Filed emergency 3/11/04—published 3/31/04, effective 4/1/04]
 - [Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]
- [Filed emergency 9/23/04 after Notice 7/7/04—published 10/13/04, effective 10/1/04]
 - [Filed 10/8/04, Notice 7/7/04—published 10/27/04, effective 12/1/04]
 - [Filed 10/14/04, Notice 8/4/04—published 11/10/04, effective 1/1/05]
 - [Filed emergency 12/14/04—published 1/5/05, effective 1/1/05]
- [Filed emergency 1/13/05 after Notice 12/8/04—published 2/2/05, effective 2/1/05]
 - [Filed without Notice 5/4/05—published 5/25/05, effective 7/1/05]
- [Filed emergency 6/17/05 after Notice 8/4/04—published 7/6/05, effective 7/1/05]
 - [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
- [Filed emergency 7/15/05 after Notice 5/11/05—published 8/3/05, effective 8/1/05]
 - [Filed 10/21/05, Notice 8/31/05—published 11/9/05, effective 1/1/06]
 - [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
 - [Filed emergency 12/14/05—published 1/4/06, effective 1/1/06]
- [Filed emergency 1/12/06 after Notice 11/23/05—published 2/1/06, effective 2/1/06]
 - [Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
 - [Filed without Notice 4/17/06—published 5/10/06, effective 7/1/06]
 - [Filed emergency 5/12/06—published 6/7/06, effective 6/1/06]
- [Filed emergency 6/16/06 after Notice 4/12/06—published 7/5/06, effective 7/1/06]
- [Filed emergency 6/16/06 after Notice 5/10/06—published 7/5/06, effective 7/1/06]
 - [Filed emergency 6/16/06—published 7/5/06, effective 7/1/06][◇]
 - [Filed 7/14/06, Notice 6/7/06—published 8/2/06, effective 9/6/06]
 - [Filed 10/20/06, Notice 8/2/06—published 11/8/06, effective 1/1/07]
 - [Filed 11/8/06, Notice 7/5/06—published 12/6/06, effective 1/10/07]
 - [Filed 12/13/06, Notice 7/5/06—published 1/3/07, effective 2/7/07]
 - [Filed 4/11/07, Notice 2/28/07—published 5/9/07, effective 7/1/07]
 - [Filed 5/16/07, Notice 2/14/07—published 6/6/07, effective 8/1/07]
 - [Filed emergency 6/13/07—published 7/4/07, effective 7/1/07][◇]
 - [Filed emergency 6/15/07—published 7/4/07, effective 7/1/07][◇]
 - [Filed emergency 6/13/07—published 7/4/07, effective 8/1/07]
- [Filed emergency 7/12/07 after Notice 5/9/07—published 8/1/07, effective 8/1/07]
 - [Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07][◇]
- [Filed emergency 10/10/07 after Notice 8/29/07—published 11/7/07, effective 11/1/07]
 - [Filed 12/12/07, Notice 7/4/07—published 1/2/08, effective 2/6/08][◇]
- [Filed emergency 1/9/08 after Notice 12/5/07—published 1/30/08, effective 2/1/08]
- [Filed emergency 2/13/08 after Notice 12/19/07—published 3/12/08, effective 2/15/08]
 - [Filed emergency 3/12/08—published 4/9/08, effective 3/12/08]
 - [Filed 4/10/08, Notice 1/30/08—published 5/7/08, effective 7/1/08]
 - [Filed 4/10/08, Notice 2/27/08—published 5/7/08, effective 7/1/08]
 - [Filed emergency 6/11/08—published 7/2/08, effective 7/1/08][◇]
 - [Filed 6/11/08, Notice 4/9/08—published 7/2/08, effective 8/6/08]
 - [Filed 7/9/08, Notice 5/7/08—published 7/30/08, effective 10/1/08]
- [Filed emergency 10/14/08 after Notice 7/2/08—published 11/5/08, effective 11/1/08]

- [Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
- [Filed emergency 11/12/08 after Notice 9/24/08—published 12/3/08, effective 1/1/09]
 - [Filed 11/12/08, Notice 8/13/08—published 12/3/08, effective 2/1/09]
- [Filed ARC 7546B (Notice ARC 7356B, IAB 11/19/08), IAB 2/11/09, effective 4/1/09]
- [Filed ARC 7741B (Notice ARC 7526B, IAB 1/28/09), IAB 5/6/09, effective 7/1/09]
- [Filed ARC 7834B (Notice ARC 7630B, IAB 3/11/09), IAB 6/3/09, effective 7/8/09]
- [Filed ARC 7833B (Notice ARC 7629B, IAB 3/11/09), IAB 6/3/09, effective 8/1/09]
 - [Filed Emergency ARC 7929B, IAB 7/1/09, effective 7/1/09]
 - [Filed Emergency ARC 7931B, IAB 7/1/09, effective 7/1/09]
 - [Filed Emergency ARC 7932B, IAB 7/1/09, effective 7/1/09]
- [Filed ARC 7935B (Notice ARC 7718B, IAB 4/22/09), IAB 7/1/09, effective 9/1/09]
- [Filed ARC 8095B (Notice ARC 7930B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
- [Filed ARC 8096B (Notice ARC 7934B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
- [Filed ARC 8260B (Notice ARC 8056B, IAB 8/26/09), IAB 11/4/09, effective 1/1/10]
 - [Filed Emergency After Notice ARC 8261B, IAB 11/4/09, effective 10/15/09]
- [Filed ARC 8439B (Notice ARC 8083B, IAB 8/26/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8443B (Notice ARC 8220B, IAB 10/7/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8444B (Notice ARC 8221B, IAB 10/7/09), IAB 1/13/10, effective 3/1/10]
- [Filed Emergency After Notice ARC 8503B (Notice ARC 8311B, IAB 11/18/09), IAB 2/10/10, effective 1/13/10]
- [Filed Emergency After Notice ARC 8500B (Notice ARC 8272B, IAB 11/4/09), IAB 2/10/10, effective 3/1/10]
- [Filed Emergency After Notice ARC 8556B (Notice ARC 8407B, IAB 12/16/09), IAB 3/10/10, effective 2/10/10]
 - [Filed ARC 8642B (Notice ARC 8461B, IAB 1/13/10), IAB 4/7/10, effective 6/1/10]
 - [Filed Without Notice ARC 8713B, IAB 5/5/10, effective 8/1/10]
- [Filed Emergency After Notice ARC 8786B (Notice ARC 8552B, IAB 2/24/10), IAB 6/2/10, effective 6/1/10]
 - [Filed ARC 8785B (Notice ARC 8619B, IAB 3/24/10), IAB 6/2/10, effective 8/1/10]
 - [Filed Emergency ARC 8898B, IAB 6/30/10, effective 7/1/10]
- [Filed ARC 8897B (Notice ARC 8705B, IAB 4/21/10), IAB 6/30/10, effective 9/1/10]
- [Filed ARC 9043B (Notice ARC 8853B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
- [Filed ARC 9044B (Notice ARC 8864B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
- [Filed ARC 9404B (Notice ARC 9277B, IAB 12/15/10), IAB 3/9/11, effective 5/1/11]
- [Filed ARC 9439B (Notice ARC 9309B, IAB 12/29/10), IAB 4/6/11, effective 6/1/11]
 - [Filed Emergency ARC 9582B, IAB 6/29/11, effective 7/1/11]
- [Filed ARC 9581B (Notice ARC 9479B, IAB 4/20/11), IAB 6/29/11, effective 8/3/11]
 - [Filed Emergency ARC 9647B, IAB 8/10/11, effective 8/1/11]
 - [Filed Emergency ARC 9696B, IAB 9/7/11, effective 9/1/11]
- [Filed ARC 9881B (Notice ARC 9697B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]
- [Filed Emergency After Notice ARC 9956B (Notice ARC 9648B, IAB 8/10/11), IAB 1/11/12, effective 1/1/12]
- [Filed Emergency After Notice ARC 9957B (Notice ARC 9804B, IAB 10/19/11), IAB 1/11/12, effective 1/1/12]
 - [Filed ARC 0149C (Notice ARC 0047C, IAB 3/21/12), IAB 6/13/12, effective 8/1/12]
 - [Filed Emergency ARC 0192C, IAB 7/11/12, effective 7/1/12]
 - [Filed ARC 0579C (Notice ARC 0432C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
- [Filed Emergency After Notice ARC 0822C (Notice ARC 0690C, IAB 4/17/13), IAB 7/10/13, effective 7/1/13]
- [Filed Emergency After Notice ARC 0821C (Notice ARC 0691C, IAB 4/17/13), IAB 7/10/13, effective 7/1/13]

[Filed Emergency After Notice ARC 0820C (Notice ARC 0668C, IAB 4/3/13), IAB 7/10/13, effective 8/1/13]

[Filed ARC 0990C (Notice ARC 0746C, IAB 5/15/13), IAB 9/4/13, effective 1/1/14]

[Filed Emergency After Notice ARC 1134C (Notice ARC 0971C, IAB 8/21/13), IAB 10/30/13, effective 10/2/13]

[Filed Emergency ARC 1212C, IAB 12/11/13, effective 1/1/14]

[Filed Emergency ARC 1266C, IAB 1/8/14, effective 1/1/14]

[Filed ARC 1355C (Notice ARC 1265C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

[Filed ARC 1356C (Notice ARC 1211C, IAB 12/11/13), IAB 3/5/14, effective 4/9/14]

◇ Two or more ARCs

¹ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

TITLE X
SUPPORT RECOVERYCHAPTER 95
COLLECTIONS

[Prior to 7/1/83, Social Services[770] Ch 95]

[Prior to 2/11/87, Human Services[498]]

441—95.1(252B) Definitions.

“*Bureau chief*” shall mean the chief of the bureau of collections of the department of human services or the bureau chief’s designee.

“*Caretaker*” shall mean a custodial parent, relative or guardian whose needs are included in an assistance grant paid according to Iowa Code chapter 239B, or who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

“*Child support recovery unit*” shall mean any person, unit, or other agency which is charged with the responsibility for providing or assisting in the provision of child support enforcement services pursuant to Title IV-D of the Social Security Act.

“*Consumer reporting agency*” shall mean any person or organization which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).

“*Date of collection*” shall mean the date that a support payment is received by the department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.

“*Delinquent support*” shall mean a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support shall also include assessments not received as specified pursuant to rule 441—156.1(234).

“*Department*” shall mean the department of human services.

“*Dependent child*” shall mean a person who meets the eligibility criteria established in Iowa Code chapter 234 or 239B, and whose support is required by Iowa Code chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598 or 600B, and any other comparable chapter.

“*Federal nontax payment*” shall mean an amount payable by the federal government which is subject to administrative offset for support under the federal Debt Collection Improvement Act, Public Law 104-134.

“*Obligee*” shall mean any person or entity entitled to child support or medical support for a child.

“*Obligor*” shall mean a parent, relative or guardian, or any other designated person who is legally liable for the support of a child or a child’s caretaker.

“*Payor of income*” shall have the same meaning provided this term in Iowa Code section 252D.16.

“*Prepayment*” shall mean payment toward an ongoing support obligation when the payment exceeds the current support obligation and amounts due for past months are fully paid.

“*Public assistance*” shall mean assistance provided according to Iowa Code chapter 239B or 249A, the cost of foster care provided by the department according to chapter 234, or assistance provided under comparable laws of other states.

“*Responsible person*” shall mean a parent, relative or guardian, or any other designated person who is or may be declared to be legally liable for the support of a child or a child’s caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the

Iowa Supreme Court in accordance with Iowa Code section 598.21B, this shall mean the person from whom support is sought.

“*Support*” shall mean child support or medical support or both for purposes of establishing, modifying or enforcing orders, and spousal support for purposes of enforcing an order.

This rule is intended to implement Iowa Code chapters 252B, 252C and 252D.
[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—95.2(252B) Child support recovery eligibility and services.

95.2(1) *Public assistance cases.* The child support recovery unit shall provide paternity establishment and support establishment, modification and enforcement services, as appropriate, under federal and state laws and rules for children and families referred to the unit who have applied for or are receiving public assistance. Referrals under this subrule may be made by the family investment program, the Medicaid program, the foster care program or agencies of other states providing child support services under Title IV-D of the Social Security Act for recipients of public assistance.

95.2(2) *Nonpublic assistance cases.* The same services provided by the child support recovery unit for public assistance cases shall also be made available to any person not otherwise eligible for public assistance. The services shall be made available to persons upon the completion and filing of an application with the child support recovery unit except that an application shall not be required to provide services to the following persons:

a. Persons not receiving public assistance for whom an agency of another state providing Title IV-D child support recovery services has requested services.

b. Persons for whom a foreign reciprocating country or a foreign country with which this state has an arrangement as provided in 42 U.S.C. §659 has requested services.

c. Persons who are eligible for continued services upon termination of assistance under the family investment program or Medicaid.

95.2(3) *Services available.* Except as provided by separate rule, the child support recovery unit shall provide the same services as the unit provides for public assistance recipients to persons not otherwise eligible for services as public assistance recipients. The child support recovery unit shall determine the appropriate enforcement procedure to be used. The services are limited to the establishment of paternity, the establishment and enforcement of child support obligations and medical support obligations, and the enforcement of spousal support orders if the spouse is the custodial parent of a child for whom the department is enforcing a child support or medical support order.

95.2(4) *Application for services.*

a. A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2) “*a,*” “*b,*” and “*c,*” shall complete and return Form 470-0188, Application for Nonassistance Support Services, for each parent from whom the person is seeking support.

(1) The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.

(2) The person requesting services has the option to seek support from one or both of the child’s parents.

b. An individual who is required to complete Form 470-0188, Application for Nonassistance Support Services, shall be charged an application fee in the amount set by statute. The unit shall charge one application fee for each parent from whom support is sought. The unit shall charge the fee at the time of initial application and any subsequent application for services. The individual shall pay the application fee to the local child support recovery unit before services are provided.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding

month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule 441—95.7(252B).

The date of collection shall be determined as follows:

95.3(1) *Payments from income withholding.* Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection shall be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, “Income Withholding Return Document,” to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider. When the income provider does not document the months for which the sums are withheld, the amounts shall initially be distributed based on the date of the check. If documentation is subsequently provided, any additional payments due the recipient shall be issued.

95.3(2) *Payments from state or political subdivisions.* Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department shall be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions shall be initially issued based on the date of the state’s or political subdivision’s check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

95.3(3) *Additional payments.* An additional payment in the month which is received within five calendar days prior to the end of the month shall be considered collected in the next month if:

- a.* CSC is notified or otherwise becomes aware that the payment is for the next month, and
- b.* Support for the current month is fully paid.

This rule is intended to implement Iowa Code sections 252B.15 and 252D.17.

441—95.4(252B) Prepayment of support. Prepayment which is due to the child support obligee shall be sent to the obligee upon receipt by the department, and shall be credited as payment of future months’ support. Prepayment which is due the state shall be distributed as if it were received in the month when due. Support is prepaid when amounts have been collected which fully satisfy the ongoing support obligation for the current month and all past months.

441—95.5(252B) Lump sum settlement.

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to August 4, 1989. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

95.5(2) The child support recovery unit shall be responsible for the determination of the department’s entitlement to all or any of the lump sum payment in a paternity action.

This rule is intended to implement Iowa Code chapter 252C.

441—95.6(252B) Offset against state income tax refund or rebate. The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

95.6(1) By the first day of each month, the department shall submit to the department of administrative services a list of obligors who are delinquent at least \$50 in support payments.

95.6(2) When the department claims an obligor's state income tax refund or rebate, the department shall send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall send a preoffset notice when:

a. The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

b. The obligor has a delinquency of \$50 or greater.

95.6(3) When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days after the preoffset notice is sent. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

95.6(4) The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be received by the department within 15 days after the date of the preoffset notice.

95.6(5) The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

95.6(6) The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by sending a final disposition of support recovery claim notice to the obligor.

95.6(7) Application of offset. Offsets shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).
[ARC 9177B, IAB 11/3/10, effective 1/1/11]

441—95.7(252B) Offset against federal income tax refund and federal nontax payment. The department will make a claim against an obligor's federal income tax refund or federal nontax payment when delinquent support is owed. For purposes of this offset, delinquent support shall include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4).

95.7(1) Amount of assigned support. If the delinquent support is assigned to the department, the amount of delinquent support shall be at least \$150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least \$50.

95.7(2) Amount of nonassigned support. If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least \$500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least \$50.

a. The amount distributed to an obligee shall be the amount remaining following payment of a support delinquency assigned to the department. The department shall distribute to an obligee the amount collected from an offset according to subrule 95.7(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 95.7(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 95.7(8), whichever is later.

(3) However, the department is not required to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offset distribution. Federal nontax payment offsets shall be applied as provided in rule 441—95.3(252B).

95.7(3) Notification to federal agency. The department shall, by October 1 of each year or at times as permitted or specified by federal regulations, submit a notification(s) of liability for delinquent support to the federal office of child support enforcement.

95.7(4) Preoffset notice and review. Each obligor who does not have an existing support debt on record with the federal office of child support enforcement will be sent a preoffset notice in writing, using address information provided to the federal office of child support enforcement, stating the amount of the delinquent support certified for offset.

a. Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

b. Upon receipt of a complaint from the individual disputing the submission for offset, the child support recovery unit shall conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days. For purposes of this rule, “mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

95.7(5) Recalculation of delinquency. When the records of the department differ with those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, and records of payments made pursuant to state law, and will recalculate the delinquency.

95.7(6) The department shall notify the federal office of child support enforcement, within time frames established by it, of any modification or elimination of an amount referred for offset.

95.7(7) When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the person must wait for corrective action as specified in subrule 95.7(8).

95.7(8) Offset notice, appeal, and refund. The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When the unit receives information from the federal office of child support enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department shall issue to that individual Form 470-3684, Appeal Rights for Federal Offsets.

a. The individual whose name was submitted for federal offset shall have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—subrules 7.8(1) and 7.8(2). Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact as specified at paragraph 95.7(4) “*b.*”

b. The department shall refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification shall mean a listing from the federal office of child support enforcement containing the obligor’s name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

c. The department shall refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

95.7(9) Application of offsets. Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.5.
[ARC 9177B, IAB 11/3/10, effective 1/1/11]

441—95.8(96) Child support offset of unemployment insurance benefits. When the department of workforce development notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the unit has been determined to be eligible for unemployment insurance benefits, the unit will enforce a child support obligation that is owed by an obligor but is not

being met by offset of unemployment insurance benefits. “Owed but not being met” means either current child support not being met or arrearages that are owed.

95.8(1) Withholding. The child support recovery unit shall offset unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and 441—Chapter 98, Division II. The amount to be withheld through a withholding of unemployment insurance benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

95.8(2) A receipt of the payments intercepted through unemployment insurance benefits will be provided once a year, upon the obligor’s request to the child support recovery unit.

This rule is intended to implement Iowa Code section 96.3 and 15 U.S.C. 1673(b).

441—95.9 Reserved.

441—95.10(252C) Mandatory assignment of wages. Rescinded IAB 9/5/90, effective 11/1/90.

441—95.11(252C) Establishment of an administrative order. Rescinded IAB 9/1/93, effective 11/1/93. See 441—99.41(252C).

441—95.12(252B) Procedures for providing information to consumer reporting agencies. The bureau chief shall make information available to consumer reporting agencies, upon their request, regarding the amount of overdue support owed by a responsible person only in cases where the overdue support exceeds \$1,000.

95.12(1) Request of information. Agencies shall request the information from the Bureau of Collections, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. Requests for information about an individual shall include the individual’s name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of \$1,000.

95.12(2) A notice of proposed release of information shall be sent to the last known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice shall explain the information to be released and the methods available for contesting the accuracy of the information.

95.12(3) The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with the child support recovery officer to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases no referral shall be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed \$1,000.

95.12(4) Rescinded IAB 11/6/96, effective 1/1/97.

This rule is intended to implement Iowa Code section 252B.8.

441—95.13(17A) Appeals. Nonreceipt of support collected by the department that is to be paid to the obligee may be appealed pursuant to the procedures provided in this rule if the obligee claims that the payment was credited to the incorrect month in accordance with subrules 95.3(1), 95.3(2), and 95.3(3).

95.13(1) Contact with department. Obligees who believe they have not received all or part of a support payment to which they are entitled in accordance with subrules 95.3(1), 95.3(2), and 95.3(3) must first contact a customer service representative and indicate that they have not received the payment.

a. An obligee may contact a customer service representative in person at the department’s collection services center, by telephone through the specialized customer services unit, or by writing to the Collection Services Center, 727 East 2nd Street, Des Moines, Iowa 50306.

b. The department will acknowledge this contact in writing, indicating the months at issue.

95.13(2) Written decision. Within 30 days of the contact, the department shall issue a written decision on all contested support distributions based on the date of collection.

95.13(3) Initiation of appeal. If the department denies some or all support payments that are claimed based on the date of collection, the obligee may initiate an administrative appeal.

a. To initiate an administrative appeal, the obligee shall make a written request to the child support recovery unit indicating an intent to appeal.

b. The time limit for initiating an administrative appeal shall be governed by 441—subrule 7.5(4). The time limit provided in 441—subrule 7.5(4) shall start with the date that a written decision as required by subrule 95.13(2) is issued.

c. If no written decision has been issued after 30 days, the obligee may appeal the failure to issue a written decision. The appeal may be initiated at any time after 30 days and before a written decision is issued.

95.13(4) *Limitation of appeals.* Appeals will be limited to claims based on child support received by the department during the nine-month period before the month in which the appeal is initiated.

95.13(5) *Appeal process.* Except as specifically provided in this rule, administrative appeals shall be governed by 441—Chapter 7.

95.13(6) *Appeal issue.* The issue in appeals held pursuant to these procedures shall be limited to the obligee's entitlement to a support payment that has been collected by the department.

This rule is intended to implement Iowa Code sections 17A.12 to 17A.20.

441—95.14(252B) Termination of services.

95.14(1) *Case closure criteria.*

a. Child support services to a recipient of public assistance may be terminated when one of the following case closure criteria is met:

(1) There is no ongoing support obligation and arrearages are under \$500 or unenforceable under state law.

(2) The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken.

(3) Paternity cannot be established because:

1. The child is at least 18 years old and action to establish paternity is barred by the statute of limitations;

2. A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or

3. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the child support recovery unit with the recipient of services.

(4) The noncustodial parent's location is unknown, and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to March 10, 1999, all of which have been unsuccessful, within the applicable time frame:

1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

(5) The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The child support recovery unit must have determined that no income or assets are available to the noncustodial parent which could be levied or attached for the payment of support.

(6) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and there is not a reciprocity agreement with that country.

(7) There has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.22(8) through 41.22(12) and 441—subrule 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(8) The child support recovery unit documents failure by the child support agency of another state which requested services to take an action which is essential for the next step in providing services.

(9) The non-IV-A recipient of services requests closure of a case and there is no assignment to the state of medical support under 42 CFR 433.146, as amended to October 1, 2002, or of arrearages which accrued under a support order.

(10) The case meets any other basis for case closure based upon federal law.

b. Child support services to a person who is not receiving public assistance may be terminated when one of the case closure criteria of subparagraphs 95.14(1)“*a*”(1) through (6) or (8) is met or for one or more of the following reasons:

(1) The child support recovery unit has received a written or oral request from the recipient to close the case, and there is no assignment to the state of medical support or arrearages which accrued under a support order.

(2) The child support recovery unit has received information that the address in the unit’s record is no longer current, and the unit is unable to contact or otherwise locate the recipient within 60 days following receipt of this information, despite an attempt of at least one letter sent by first-class mail to the recipient’s last-known address.

(3) The recipient of services has failed to cooperate with the child support recovery unit, the circumstances of the noncooperation have been documented, and an action by the recipient of services is essential for the next step in providing services. (See rule 441—95.19(252B).)

(4) The child support recovery unit has provided location-only services.

(5) The child support recovery unit has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or forcible rape or a case in which legal proceedings for adoption are pending.

(6) The case meets any other basis for case closure based upon federal law.

95.14(2) Notification in public assistance cases. In cases meeting one of the criteria of subparagraphs 95.14(1)“*a*”(1) through (6), (8), or (10), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the child support agency in the state which requested services in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the state requesting services supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. The recipient of services may request that the case be reopened at a later date if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application and paying any applicable fee.

95.14(3) Reasons for termination of services to nonpublic assistance recipients. Rescinded IAB 4/30/03, effective 7/1/03.

95.14(4) Notification in nonpublic assistance cases. The child support recovery unit shall provide notification to nonpublic assistance cases meeting the criteria for closure in paragraph 95.14(1)“*b*” in the manner and under the conditions stated in subrule 95.14(2), except for cases terminated for the reasons listed in subparagraphs 95.14(1)“*b*”(1) and (4). If the case is to be closed because the child support recovery unit was unable to contact the recipient of services as provided in subparagraph 95.14(1)“*b*”(2), the case shall be kept open if contact is reestablished with the recipient of services before the effective date of the closure.

This rule is intended to implement Iowa Code sections 252B.4, 252B.5 and 252B.6.

441—95.15(252B) Child support recovery unit attorney.

95.15(1) State’s representative. An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with the child support recovery unit represents only the state of Iowa. The sole attorney-client relationship for the child support recovery

unit attorney is between the attorney and the state of Iowa. A private attorney acting under Iowa Code section 252B.6A is not a child support recovery unit attorney, and is not a party to the action.

95.15(2) *Provision of services.* The special role of the child support recovery unit attorney is limited by the attorney-client relationship between the attorney and the state of Iowa. The provision of legal services by the child support recovery unit attorney is limited as follows:

a. The child support recovery unit attorney shall not represent any person or entity other than the state of Iowa in the course of the attorney's employment by or contractual relationship with the child support recovery unit.

b. The child support recovery unit attorney shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

95.15(3) *Communication concerning case circumstances.*

a. The child support recovery unit shall provide case status information upon written request by any recipient of child support enforcement services or any party under the review and adjustment procedure, unless otherwise prohibited by state or federal statute or rules pertaining to confidentiality.

b. All communications with other parties will be directed to those parties personally, unless a licensed attorney has entered an appearance or notified the child support recovery unit in writing that the attorney is representing a party. If any party is represented by counsel, all communications shall be directed to counsel for that party.

c. When a party is receiving public assistance, the unit shall refer any suspected fraud or questionable family investment program expenditures to the appropriate governmental agencies.

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21.

441—95.16(252B) Handling and use of federal 1099 information. Data from the collection and reporting system is matched with federal 1099 records for information on assets and income. Verified 1099 information may be used for: establishing support orders, modifying support orders under the review and adjustment process and enforcing payment of support debts.

95.16(1) *Security of 1099 information.* Information received from the federal source, 1099, shall be safeguarded in accordance with Internal Revenue Code Section 6103(p)(4). Information shall be kept in a secure section of the state computer system and not released until verified by a third party.

95.16(2) *Verification of 1099 information.* Prior to release of any information to the local child support recovery office, the information shall be verified by a third party as follows:

a. When information indicates there may be assets available from a financial institution, the child support recovery unit shall secure verification of these assets from the financial institution on Form 470-3170, Asset Verification Form.

b. When address information is received, the child support recovery unit shall secure verification of the address information from the post office on Form 470-0176, Address Information Request.

c. When employment information is received, the child support recovery unit shall secure verification of the employment from the employer on Form 470-0177, Employer Information Request.

This rule is intended to implement Iowa Code section 252B.9.

441—95.17(252B) Effective date of support. For all original orders established by the child support recovery unit, the effective date of the support obligation under the orders shall be the twentieth day following the date the order is prepared by the unit, unless otherwise specified.

441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—subrule 41.22(8) or 441—subrule 75.14(3), as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

95.18(1) *Notice of services.* When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, Notice of Continued Support Services, to the family's last-known address within five working days of the notification of ineligibility, to inform the family:

a. That, unless the family notifies the department to the contrary, services will continue.

b. Of the effect of continuing to receive support services, including the available services and the state's policies on fees, cost recovery, and distribution.

95.18(2) *Termination of services.* A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, Notice of Continued Support Services, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

95.18(3) *Reapplication for services.* A person whose services were denied or terminated may reapply for services under this chapter by completing the application process and paying the application fee described in subrule 95.2(4).

This rule is intended to implement Iowa Code section 252B.4.

441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

95.19(1) *Cooperation defined.* The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—subrule 41.22(8) or 75.14(8) for refusal to cooperate, is established.

a. The person shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom assistance or Medicaid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom assistance or Medicaid is claimed.

(3) Obtaining support payments for the person and the child for whom assistance is claimed, and obtaining medical support for the person and child for whom Medicaid is claimed.

b. Cooperation is defined as including the following actions by the person if the action is requested by the child support recovery unit:

(1) Providing the name of the noncustodial parent and additional necessary information.

(2) Appearing at the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the person that is relevant to achieving the objectives of the child support recovery program.

(3) Appearing at judicial or other hearings, proceedings or interviews.

(4) Providing information or attesting to the lack of information, under penalty of perjury.

(5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by the statute in Iowa Code section 252A.3A. However, the person shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, Child Support Information, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.19(2) Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, Notice of Noncooperation, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) Good cause or other exception.

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrules 41.22(8) through 41.22(12).

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrule 75.14(3).

This rule is intended to implement Iowa Code section 252B.3.

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in 441—subrule 41.22(6) and rule 441—75.14(249A) shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

This rule is intended to implement Iowa Code section 252B.3.

441—95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases.

95.21(1) Requirements. The individual receiving nonpublic assistance support services shall cooperate with the child support recovery unit by meeting all the requirements of rule 441—95.19(252B), except that the individual may not claim good cause or other exception for not cooperating.

95.21(2) Failure to cooperate. The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under 95.14(1)“b”(1).

This rule is intended to implement Iowa Code section 252B.4.

441—95.22(252B) Charging pass-through fees. Pass-through fees are fees or costs incurred by the department for service of process, genetic testing and court costs if the entity providing the service charges a fee for the services. The child support recovery unit may charge pass-through fees to persons who receive continued services according to rule 441—95.18(252B) and to other persons receiving nonassistance services, except no fees may be charged an obligee residing in a foreign country or the foreign country if the unit is providing services under paragraph 95.2(2)“b.”

This rule is intended to implement Iowa Code section 252B.4.

441—95.23(252B) Reimbursing assistance with collections of assigned support. For an obligee and child who currently receive assistance under the family investment program, the full amount of any assigned support collection that the department receives shall be distributed according to rule 441—95.3(252B) and retained by the department to reimburse the family investment program assistance.

This rule is intended to implement Iowa Code section 252B.15.

441—95.24(252B) Child support account. The child support recovery unit shall maintain a child support account for each client. The account, representing money due the department, shall cover all periods of time public assistance has been paid, commencing with the date of the assignment. The child support recovery unit will not maintain an interest-bearing account.

This rule is intended to implement Iowa Code chapter 252C.

441—95.25(252B) Emancipation verification. The child support recovery unit (CSRU) may verify whether a child will emancipate according to the provisions established in the court order prior to the child's eighteenth birthday.

95.25(1) Verification process. CSRU shall send Form 470-2562, Emancipation Verification, to the obligor and obligee on a case if CSRU has an address.

95.25(2) Return information. The obligor and obligee shall be asked to complete and return the form to the unit. CSRU shall use the information provided by the obligor or obligee to determine if the status of the child indicates that any previously ordered adjustments related to the obligation and a child's emancipation are necessary on the case.

95.25(3) Failure to return information. If the obligor and obligee fail to return the questionnaire, CSRU shall apply the earliest emancipation date established in the support order to the case and implement changes in support amounts required in the support order.

95.25(4) Conflicting information returned. If conflicting information is returned or made known to CSRU, CSRU shall have the right to verify the child's status through sources other than the obligor and obligee.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed emergency 11/21/80 after Notice 10/1/80—published 12/10/80, effective 11/21/80]

[Filed 10/23/81, Notice 9/2/81—published 11/11/81, effective 12/16/81]

[Filed 11/19/82, Notice 9/29/82—published 12/8/82, effective 1/12/83^o]

[Filed 11/18/83, Notice 9/28/83—published 12/7/83, effective 2/1/84]

[Filed 8/31/84, Notice 7/18/84—published 9/26/84, effective 11/1/84]

[Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]

[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]

[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 10/1/85]

[Filed 5/28/86, Notice 3/26/86—published 6/18/86, effective 8/1/86]

[Filed 12/22/86, Notice 11/5/86—published 1/14/87, effective 3/1/87]

[Filed 12/11/86, Notice 11/5/86—published 1/14/87, effective 3/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed emergency 7/14/89 after Notice 5/31/89—published 8/9/89, effective 8/1/89]

[Filed 12/15/89, Notice 11/1/89—published 1/10/90, effective 3/1/90]

[Filed 8/16/90, Notice 6/27/90—published 9/5/90, effective 11/1/90]

[Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 12/1/90]

[Filed emergency 10/12/90 after Notice 8/22/90—published 10/31/90, effective 10/13/90]

[Filed 10/12/90, Notice 8/22/90—published 10/31/90, effective 1/1/91]

[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]

[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]

[Filed 8/12/93, Notice 6/23/93—published 9/1/93, effective 11/1/93]

[Filed 6/7/95, Notice 4/26/95—published 7/5/95, effective 9/1/95]

[Filed 2/14/96, Notice 12/20/95—published 3/13/96, effective 5/1/96]

[Filed 10/9/96, Notice 8/14/96—published 11/6/96, effective 1/1/97]

[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]

[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]

[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]

[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]

[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 8/1/99]

[Filed 7/14/99, Notice 5/19/99—published 8/11/99, effective 10/1/99]

[Filed 12/8/99, Notice 10/20/99—published 12/29/99, effective 3/1/00]

[Filed emergency 6/8/00—published 6/28/00, effective 6/8/00]

[Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]

[Filed 4/10/03, Notice 2/19/03—published 4/30/03, effective 7/1/03]

[Filed 10/14/04, Notices 8/4/04, 8/18/04—published 11/10/04, effective 1/1/05]

[Filed emergency 1/19/07—published 2/14/07, effective 1/20/07]

[Filed ARC 9177B (Notice ARC 9026B, IAB 8/25/10), IAB 11/3/10, effective 1/1/11]

[Filed ARC 1357C (Notice ARC 1228C, IAB 12/11/13), IAB 3/5/14, effective 5/1/14]

⁰ Two or more ARCs

¹ Effective date of 95.1, definition of “Date of collection,” and 95.3 delayed 70 days by the Administrative Rules Review Committee at its meeting held September 15, 1999; delayed until the end of the 2000 Session of the General Assembly at its meeting held October 11, 1999.

CHAPTER 99
SUPPORT ESTABLISHMENT AND ADJUSTMENT SERVICES

PREAMBLE

This chapter contains rules governing the provision of services by the child support recovery unit regarding: the establishment of paternity; the establishment of support obligations in accordance with the mandatory guidelines set by the Iowa Supreme Court; the review and adjustment of support obligations; the modification of support obligations; and the suspension and reinstatement of support obligations. The rules in this chapter pertain only to administrative actions or procedures used by the unit in providing the services identified. This chapter shall not be interpreted to limit the unit's authority to use other means as provided for by state or federal statute, including, but not limited to, judicial procedures in providing these services.

DIVISION I
CHILD SUPPORT GUIDELINES

441—99.1(234,252B,252H) Income considered. The child support recovery unit shall consider all regularly recurring income of both legal parents to determine the amount of the support award in accordance with the child support guidelines prescribed by the Iowa Supreme Court. These rules on child support guidelines shall not apply if the child support recovery unit is determining the support amount by a cost-of-living alteration as provided in Iowa Code chapter 252H, subchapter IV.

99.1(1) Exempt income. The following income of the parent is exempt in the establishment or modification of support:

- a. Income received by the parent under the family investment program (FIP).
- b. Income or other benefits derived from public assistance programs funded by a federal, state, or local governmental agency or entity that are listed in rule 441—41.27(239B) as exempt from consideration in determining eligibility under FIP.
- c. Income such as child support, social security dependent benefits received by a parent for a child because of the other parent's disability, and veteran's dependent benefits received by a parent on behalf of a child.
- d. Stepparent's income.
- e. Income of a guardian who is not the child's parent.
- f. Income of the child's siblings.
- g. Earned income tax credit.

99.1(2) Determining income. Any of the following may be used in determining a parent's income for establishing or modifying a support obligation:

- a. Income reported by the parent in a financial statement.
- b. Income established by any of the following:
 - (1) Income verified by an employer or other source of income.
 - (2) Income reported to the department of workforce development.
 - (3) For a public assistance recipient, income reported to the department of human services caseworker assigned to the public assistance case.
 - (4) Other written documentation that identifies income.
- c. Income as determined through occupational wage rate information published by the Iowa workforce development department or other state or federal agencies.
- d. The median income for parents on the CSRU caseload, calculated annually.
- e. Social security dependent benefits. Social security dependent benefits paid for a child because of a parent's disability shall be included in the disabled parent's income. Social security dependent benefits paid for a parent due to the other parent's disability shall be included in the receiving parent's income.

99.1(3) Verification of income. Verification of income and allowable deductions from each parent shall be requested.

a. Verification of income may include, but is not limited to, the following:

- (1) Federal and state income tax returns.
- (2) W-2 statements.
- (3) Pay stubs.
- (4) Signed statements from an employer or other source of income.
- (5) Self-employment bookkeeping records.
- (6) Award letters confirming entitlement to benefits under a program administered by a government or private agency such as social security, veterans' or unemployment benefits, military or civil service retirement or pension plans, or workers' compensation.

b. Cases in which the information or verification provided by a parent is questionable or inconsistent with other circumstances of the case may be investigated. If the investigation does not reveal any inconsistencies, the financial statement and other documentation provided by the parent shall be used to establish income.

c. If discrepancies exist in the financial statement provided by the parent and additional income information is not available, the child support recovery unit may:

- (1) Request a hearing before the court if attempting to establish a support order through administrative process.

- (2) Conduct discovery if a parent places the matter before the court by answering a petition or requesting a hearing before the court.

- (3) When attempting to establish a default order, provide the court with a copy of the parent's financial information and the reasons the information may be questionable.

d. If the child support recovery unit is unable to obtain verification of a parent's income, the financial statement provided by the parent may be used to establish support.

99.1(4) *Use of occupational wage rate information or median income for parents on the CSRU caseload.* Occupational wage rate information or median income for parents on the CSRU caseload shall be used to determine a parent's income when the parent has failed to return a completed financial statement when requested, and when complete and accurate income information from other readily available sources cannot be secured.

a. *Occupation known.* When the last-known occupation of a parent can be determined through a documented source including, but not limited to, Iowa workforce development or the National Directory of New Hires, occupational wage rate information shall be used to determine income. When the last-known occupation of a parent cannot be determined through a documented source, information may be gathered from the other parent and occupational wage rate information applied. Wage rate information shall be converted to a monthly amount in accordance with subrule 99.3(1).

b. *Occupation unknown.* When the occupation of a parent is unknown, CSRU shall estimate the income of a parent using the median income amount for parents on the CSRU caseload.

99.1(5) *Self-employment income.* A self-employed parent's adjusted gross income, rather than the net taxable income, shall be used in determining net income. The adjusted gross income shall be computed by deducting business expenses involving actual cash expenditures that affect the actual dollar income of the parent.

a. A person is self-employed when the person:

- (1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

- (2) Establishes the person's own working hours, territory, and methods of work.

- (3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service (IRS).

b. In calculating net income from self-employment, the child support recovery unit shall deduct only those items allowed by the child support guidelines. Amounts from a prior period claimed as net losses shall not be allowed as deductions.

c. Net profits from self-employment may be determined through a review of self-employment bookkeeping records, sales and expenditure records, quarterly reports filed with the IRS, previous year's federal or state income tax returns, or other documentation. The parent shall provide records of

bookkeeping, sales, and expenditures for the most recent 12-month period or, if the self-employment is less than 12 months old, for the period since the self-employment began.

99.1(6) *Fluctuating income.* A person has a fluctuating income when the calculated gross income or the adjusted gross income, as defined in subrule 99.1(5), for the current year varies from the gross or adjusted gross income of the previous year by more than 20 percent.

a. If requested, the child support recovery unit shall average the income of a person whose income fluctuated because the nature of the person's occupation is of a type that normally experiences fluctuations in income.

b. In determining a person's average income, the following procedures shall be used:

(1) For non-self-employed persons, the child support recovery unit shall estimate the gross income for the current year and add the amount to the gross income from relevant years that would accurately depict fluctuations in the person's income. The unit shall divide this sum by the number of years added, prior and current, to arrive at an average gross annual income. The unit shall divide the average gross annual income by 12 to arrive at the person's average gross monthly income.

(2) For income from self-employment, the child support recovery unit shall compute the adjusted gross annual income as defined in subrule 99.1(5) for the relevant years that would accurately depict fluctuations in the person's income. The unit shall use the adjusted gross annual income to compute the average adjusted gross monthly income in the same manner as the computation of average gross monthly income in 99.1(6) "b"(1).

441—99.2(234,252B) Allowable deductions. The deductions specified in the supreme court child support guidelines shall be allowed when determining the amount of income subject to application of the guidelines. The parent claiming the deduction shall provide the documentation necessary for computing allowable deductions. Allowable deductions are:

99.2(1) Federal and state income tax.

a. The child support recovery unit shall calculate the amount of the deduction for federal and state income tax as specified in the Iowa Supreme Court guidelines.

b. The unit shall calculate the amount of the deduction for self-employed persons with fluctuating incomes, as defined in subrule 99.1(6), by computing the person's averaged income and applying the method of calculating a tax deduction as required by Iowa Supreme Court guidelines.

99.2(2) Social security and Medicare tax deductions, mandatory pensions, and union dues as specified in the Iowa Supreme Court guidelines.

99.2(3) Mandatory occupational license fees as specified in the Iowa Supreme Court guidelines.

99.2(4) Actual payments of child and spousal support pursuant to a prior court or administrative order. The date of the original court or administrative order, rather than the date of any modifications, shall establish a prior order under this subrule. Support paid under an order established subsequent to the order being modified shall not be deducted. All support payments shall be verified before being allowed as a deduction. The child support recovery unit shall calculate deductions for support as follows:

a. In establishing prior support payments, the child support recovery unit shall verify payments made for the 12 months preceding the month in which the amount of support for the new order is determined. If the support obligation is less than one year old, the child support recovery unit shall verify each monthly payment since the beginning of the obligation.

b. If the obligation is one year old or older, the child support recovery unit shall add together all verified amounts paid during the past 12 months up to the total of the current support obligation that accrued during this 12-month period, and divide by 12. All amounts collected shall be included, regardless of the source.

c. If the support obligation is less than one year old, the child support recovery unit shall add together the verified amounts paid since the obligation began up to the total of the current support obligation that accrued during this period, and divide by the number of months that the obligation has existed.

d. When a parent has more than one prior support order, the child support recovery unit shall calculate the allowable deduction for each obligation separately, and then add the amounts together to determine the parent's total allowable deduction.

99.2(5) Actual medical support paid pursuant to a court order or administrative order in another order for other children, not the pending matter. All medical support payments shall be verified before being allowed as a deduction and shall be calculated in the same manner as the deductions for support in subrule 99.2(4).

99.2(6) Actual child care expenses during the custodial parent's employment, less the applicable federal income tax credit. The child support recovery unit shall determine the amount of the child care deduction as follows:

a. Actual child care expenses related to the custodial parent's employment shall be verified by a copy of the custodial parent's federal or state income tax return or by a signed statement from the person or agency providing the child care.

b. Only the amount of reported child care expenses in excess of the amount allowed as "credit for child and dependent care expenses" for federal income tax purposes shall be allowed as a deduction in determining the custodial parent's net income.

c. In determining the deduction allowed to the custodial parent for child care expenses due to employment, the following procedures shall be used:

(1) If the custodial parent provides a copy of a federal income tax return for the current tax processing year and the amount is consistent with the current financial circumstances of the parent, the child support recovery unit shall use the amount reported as "credit for child and dependent care expenses."

(2) If income tax information is not available, or if the parent indicates or there is reason to believe that the amount stated in the return is no longer representative of the parent's financial conditions or child care expenses, the child support recovery unit shall determine the allowable deduction for child care expenses for federal income tax purposes using the custodial parent's income only.

d. The child support recovery unit shall compute the child care deduction as follows:

(1) Divide the amount of child care expense the parent may claim as a deduction for federal income tax purposes by 12 to arrive at a monthly amount.

(2) If the child care expense reported on the financial statement is not a monthly amount, convert the reported amount to an equivalent monthly figure and round the figure to two decimal places.

(3) Subtract the amount the parent may claim as "credit for child and dependent care expenses" for federal income tax from the amount of child care expenses reported on the financial statement. The difference is the amount allowed for a deduction in determining income for child support.

99.2(7) Qualified additional dependent deduction (QADD). The qualified additional dependent deduction is the amount specified in the supreme court guidelines as a deduction for any child for whom parental responsibility has been legally established as defined by the child support guidelines. However, this deduction may not be used for a child for whom the parent may be eligible to take a deduction under subrule 99.2(4).

a. The deduction for qualified additional dependents may be used:

(1) For dependents of the custodial or noncustodial father or mother, whether in or out of the parent's home. The father may establish the deduction by providing written verification of a legal obligation to the children through one of the actions enumerated in the guidelines. The mother may establish the deduction by providing written verification of a legal obligation to the children, including the mother's statement.

(2) In the establishment of original orders.

(3) In the modification of existing orders. The deduction may be used in an upward modification. The deduction cannot be used to affect the threshold determination of eligibility for a downward modification, but may be used after the threshold determination is met.

b. Reserved.

99.2(8) Cash medical support as specified in the Iowa Supreme Court guidelines.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.3(234,252B) Determining net income. Unless otherwise specified in these rules, the child support recovery unit shall determine net income as prescribed by the Iowa Supreme Court guidelines.

99.3(1) *Calculating net income.* All includable income and allowable deductions shall be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly shall be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2.

99.3(2) *Estimating net income.*

a. The estimated net income of a parent shall be 80 percent of the reported income or the estimated income as determined from occupational wage rate information or derived from the median income of parents on the CSRU caseload, as appropriate, minus the deductions enumerated in subrules 99.2(3) to 99.2(8) when the information to calculate these deductions is readily available through automated or other sources.

b. The net income of a parent shall be estimated under the following conditions:

(1) Gross earned income information was obtained from a source that did not provide itemized deductions allowed by the mandatory support guidelines.

(2) Occupational wage rate information or median income of parents on the CSRU caseload was used to determine a parent's income.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.4(234,252B) Applying the guidelines.

99.4(1) *Applying the guidelines.* The child support recovery unit shall use the child support guidelines schedule as prescribed by the Iowa Supreme Court only for the number of children for whom support is being sought sharing the same two legal parents.

EXCEPTION: For foster care recovery cases, the guidelines schedule shall be used as set forth in subrule 99.5(4).

99.4(2) *Establishing current support.*

a. Calculation. The child support recovery unit shall calculate the amount of support as prescribed by the Iowa Supreme Court guidelines. Round amount of support to the nearest whole dollar.

b. Additional factors.

(1) In all cases other than foster care, CSRU shall establish current support payable in monthly frequencies.

(2) In foster care cases, CSRU may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, CSRU shall divide the figure in paragraph 99.4(2) "a" by 4.33 and round to the nearest whole dollar.

(3) If the court orders joint (equally shared) physical care of a child or split or divided physical care of multiple children, the unit shall calculate current support according to the Iowa Supreme Court guidelines for each parent assuming the other is the custodial parent. If a child begins receiving family investment program (FIP) benefits or if foster care funds are expended, an offset of the two amounts as a method of payment shall be disallowed.

(4) The amount of support shall be zero if the noncustodial parent's only income is Supplemental Security Income paid pursuant to 42 U.S.C. 1381a.

99.4(3) *Establishing accrued support debt amount.*

a. Support debt created. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates an accrued support debt due and owing by the child's parent to the department. The amount of the accrued support debt is based on the period of time public assistance payment or foster care funds were expended, but is not created for the period of receipt of public assistance on the parent's own behalf for the benefit of the dependent child or the child's caretaker.

b. Calculating accrued support debt. CSRU shall calculate the accrued support debt as follows:

(1) For Family Investment Program (FIP) benefits, CSRU shall use the period for which FIP was paid during the 36 months preceding the date the notice of support debt is prepared or the date the petition is filed. For foster care assistance, CSRU shall use the three-month period for which foster care assistance

was paid prior to the date the initial notice to the noncustodial parent of the amount of support obligation is prepared, or the date a written request for a court hearing is received, whichever is earlier.

(2) CSRU shall exclude periods the noncustodial parent received public assistance as a part of this eligible group.

(3) CSRU may extend the period to include any additional periods public assistance is expended prior to the entry of the order.

(4) CSRU shall calculate the amount of the obligation by using the current net income of both parents, the guidelines in effect at the time the order is entered, and the number of children of the noncustodial parent who were receiving public assistance for each month for which accrued support is sought.

(5) CSRU shall calculate the total amount of the FIP support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount.

(6) CSRU may calculate the total amount of the foster care support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount and shall adjust this amount for weeks in which no foster care benefits were paid.

c. Establishing the accrued support repayment amount.

(1) In cases other than foster care, CSRU shall establish the repayment amount as follows:

1. When there is an ongoing obligation, the monthly repayment amount shall be 10 percent of the ongoing amount unless the noncustodial parent agrees to a higher amount.

2. When the order does not include ongoing support, the monthly repayment amount shall be the same as the amount for ongoing support which would have been due if such an obligation had been established. However, when all of the children for whom accrued support debt is sought are residing with the noncustodial parent, the monthly repayment amount shall be set at 10 percent of this amount.

(2) In foster care cases, CSRU shall establish the repayment amount in the same manner as subparagraph (1), but may establish weekly amounts and if the order does not include ongoing support, the repayment amount shall be set at 10 percent of the amount for ongoing support which would have been due if such an obligation had been established.

99.4(4) *Children in nonparental homes or foster care.* The parents of a child in a nonparental home or in foster care are severally liable for the support of the child. A support obligation shall be established separately for each parent.

a. Parents' location known. When the location is known for both parents having a legal obligation to provide support for their children, the income of both parents shall be used to determine the amount of ongoing support in accordance with the child support guidelines.

(1) Calculating support amount. There shall be a separate calculation of each parent's child support amount, regardless of whether the parents are married and living together, or living separately. Each calculation shall assume that the parent for whom support is being calculated is the noncustodial parent and the other parent is the custodial parent.

(2) Prior orders. If only one parent is paying support under a prior order for the children for whom support is being calculated, the amount of support paid shall not be deducted from that parent's net monthly income in computing the support amount for the other parent.

b. One parent's location unknown. When the location of one parent is not known, procedures shall be initiated to establish a support order against the parent whose location is known in accordance with the mandatory support guidelines as follows:

(1) The parent whose location is known shall be considered the noncustodial parent and that parent's income shall be used to calculate child support.

(2) The income of the parent whose location is unknown shall be determined by using the estimated median income for parents on the CSRU caseload and that parent shall be considered the custodial parent in calculating child support.

c. When one parent is deceased or has had parental rights terminated, the method used to calculate support when one parent's location is not known shall be used. The parent who is deceased or has had parental rights terminated shall be considered the custodial parent with zero income.

99.4(5) *Extraordinary visitation adjustment.* The extraordinary visitation adjustment is a credit as specified in the supreme court guidelines. The credit shall not reduce the child support below the amount required by the supreme court guidelines.

The extraordinary visitation adjustment credit shall be given if all of the following apply:

a. There is an existing order for the noncustodial parent that meets the criteria for extraordinary visitation in excess of 127 overnights per year on an annual basis for the child for whom support is sought. The order granting visitation can be a different order than the child support order. If a controlling order is determined pursuant to Iowa Code chapter 252K and that controlling support order does not meet the criteria for extraordinary visitation, there is another order that meets the criteria.

b. The noncustodial parent has provided CSRU with a file-stamped or certified copy of the order.

c. The court has not ordered equally shared physical care.

99.4(6) *Establishing medical support.* The child support recovery unit shall calculate medical support as required by Iowa Code chapter 252E and the Iowa Supreme Court guidelines. The cost of the health insurance premium for the child is added to the basic support obligation and prorated between the parents as provided in the Iowa Supreme Court guidelines, and the parent ordered to provide health insurance must provide verification of this expense or anticipated expense.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.5(234,252B) Deviation from guidelines.

99.5(1) *Criteria for deviation.* The court shall not vary from the amount of child support that would result from application of the guidelines without a written finding as required by the Iowa Supreme Court guidelines.

99.5(2) *Supporting financial and legal documentation.*

a. The party requesting a deviation from the guidelines shall provide supporting documentation. The supporting documentation shall include an itemized list identifying the amount and nature of each adjustment requested. Failure to provide supporting documentation for a request for deviation shall result in a denial of the request.

b. Legal documents prepared for the court's approval, such as stipulations and orders for support, shall include language to identify the following:

(1) The amount of support calculated under the guidelines without allowance for deviations.

(2) The reasons for deviating from the guidelines.

(3) The amount of support calculated after allowing for the deviation.

99.5(3) *Depreciation.* A parent may request a deduction for depreciation of machinery, equipment, or other property used to earn income. Straight-line depreciation shall be the only type of depreciation that shall be allowed as a deduction. The child support recovery unit shall allow the straight-line depreciation amount as a deduction if the parent provides documentation from a tax preparer verifying the amount of straight-line depreciation being claimed. Straight-line depreciation is computed by deducting the property's estimated salvage value from the cost of the property, and deducting that figure in equal yearly amounts over the period of the property's remaining estimated useful life.

99.5(4) *Foster care case.* In a foster care case, the child support recovery unit may deviate from the guidelines by applying a 30 percent flat rate deduction for parents who provide financial documentation. The flat rate deduction represents expenses under the case permanency plan and financial hardship allowances or other circumstances contemplated in Iowa Code section 234.39.

CSRU shall calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows: The support obligation of each parent shall be calculated by allowing all deductions the parent is eligible for under the child support guidelines as provided in rule 441—99.2(234,252B) and by using the guidelines schedule corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. The calculated support amount shall be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

99.5(5) *Negotiation of accrued support debt.* The child support recovery unit may negotiate with a parent to establish the amount of accrued support debt owed to the department. In negotiating accrued

support, the state does not represent the custodial parent. The custodial parent may intervene at any time prior to the filing of the order to contest the amount of the debt or request the entry of a judgment in the parent's behalf which may otherwise be relinquished through negotiation or entry of a judgment.
[ARC 1357C, IAB 3/5/14, effective 5/1/14]

These rules are intended to implement Iowa Code sections 234.39, 252B.3, 252B.5, 252B.7A, and 598.21(4).

441—99.6 to 99.9 Reserved.

DIVISION II
PATERNITY ESTABLISHMENT
PART A
JUDICIAL PATERNITY ESTABLISHMENT

441—99.10(252A) Temporary support. If a court ordered a putative father to pay temporary support before entering an order making a final determination of paternity under Iowa Code section 252A.6A, but then the court determines that the putative father is not the legal father and enters an order terminating the temporary support, all the following apply.

99.10(1) Satisfaction of accrued support. Upon receipt of a file-stamped copy of the order terminating the support order, the child support recovery unit shall take the following action concerning unpaid support assigned to the department:

- a. The child support recovery unit shall satisfy only unpaid support assigned to the department.
- b. The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver or notice, the child support recovery unit is not prevented from satisfying amounts due the department.
- c. The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court.

99.10(2) Previously collected moneys. The child support recovery unit shall not return any moneys previously paid on the temporary support judgment.

This rule is intended to implement Iowa Code section 252A.6A.

441—99.11 to 99.20 Reserved.

PART B
ADMINISTRATIVE PATERNITY ESTABLISHMENT

441—99.21(252F) When paternity may be established administratively. The child support recovery unit may seek to administratively establish paternity and accrued or accruing child support and medical support obligations against an alleged father when the conditions specified in Iowa Code chapter 252F are met.

441—99.22(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child's caretaker. The unit shall obtain the Mother's Written Statement Alleging Paternity, Form 470-3293, from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. Government records, including but not limited to an application for public assistance, which substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293, the mother acknowledges that the unit may initiate a paternity action against the alleged father, and she agrees to accept service of all notices and other documents related to that action by first-class mail. The mother shall sign and return Form 470-3293 to the unit within ten days of the date of the unit's request.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.23(252F) Notice of alleged paternity and support debt. Following receipt of the Mother's Written Statement Alleging Paternity, Form 470-3293, or government records, including but not limited to an application for public assistance, which substantially meet the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.24(252F) Conference to discuss paternity and support issues. The alleged father may request a conference as provided in Iowa Code section 252F.3, subsection (1), with the office that issued the notice to discuss paternity establishment and the amount of support he may be required to pay.

441—99.25(252F) Amount of support obligation. The unit shall determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

441—99.26(252F) Court hearing. If the alleged father requests a court hearing within the time frames specified in Iowa Code section 252F.3, or as extended by the unit, and paternity testing has not been conducted, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing.

441—99.27(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—99.23(252F), a written statement contesting paternity to the address of the unit as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after the unit mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of the unit as set forth in the notice. When paternity is contested, or at the unit's initiative, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing.

441—99.28(252F) Paternity test results challenge. Either party or the unit may challenge the results of the paternity test by filing a written notice with the district court within 20 calendar days after the unit issues or mails the paternity test results to the parties. When a party challenges the paternity test results, and requests an additional paternity test, the unit shall order an additional blood or genetic test, if the party requesting the additional test pays for the additional testing in advance. If the party challenges the first paternity test results, but does not request additional tests, the unit may order additional blood or genetic tests.

441—99.29(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father may acknowledge his consent on the Child Support Declaration, Form 470-4084. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit may file the Child Support Declaration, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.30(252F) Entry of order establishing paternity only. If the alleged father requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, the unit shall prepare an order establishing paternity and reserving the support issues for determination by the court. The unit shall present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

441—99.31(252F) Exception to time limit. The unit may accept and respond to written requests for court hearings beyond the time limits allowed in this part.

441—99.32(252F) Genetic test costs assessed.

99.32(1) *Paternity established.* If genetic testing of an alleged father is conducted and that man is established as the child's father, the unit shall assess the costs of the genetic testing to the father who denied paternity and enter an order for repayment of these costs.

99.32(2) *Paternity not established.* If genetic testing of an alleged father is conducted and that man is not established as the child's father, the costs of the genetic testing shall not be assessed to any of the parties.

99.32(3) *Results contested.* If the results of the genetic testing are timely challenged and the challenging party requests additional testing, the party contesting the results shall advance the cost of the additional testing. If the challenging party does not advance payment for the additional testing, the unit shall certify the case to district court.

These rules are intended to implement Iowa Code chapter 252F.

441—99.33 to 99.35 Reserved.

PART C
PATERNITY DISESTABLISHMENT

441—99.36(598,600B) Definitions.

"Disestablishment" means paternity which is legally overcome under the conditions specified in Iowa Code section 600B.41A or section 598.21, subsection 4A.

"Nonrequesting parent" means a parent who is not filing a petition to overcome paternity.

"Requesting parent" means a parent who files a petition to overcome paternity.

441—99.37(598,600B) Communication between parents. When a parent who has filed a petition to disestablish paternity requests assistance from the child support recovery unit in contacting the other parent, the child support recovery unit shall take the following actions if services are being provided by the child support recovery unit, the location of the nonrequesting party is known, and the child support recovery unit has been provided a copy of the petition to disestablish paternity.

99.37(1) *Written contact.* The child support recovery unit shall send written notification to the nonrequesting parent of the requesting parent's desire to disestablish paternity and of the requesting parent's whereabouts. The notice shall state that the nonrequesting parent may cooperate in this action by filing a statement of the nonrequesting parent's current address or the name and address of the nonrequesting parent's attorney in the court file, or may contact the requesting parent with this information.

99.37(2) *Notification of requesting parent.* The child support recovery unit shall provide notification to the requesting party that contact was made with the nonrequesting party and that the nonrequesting parent may file a statement in the court file or may contact the requesting parent directly.

441—99.38(598,600B) Continuation of enforcement. The child support recovery unit shall continue all enforcement actions to collect current and accrued support as ordered until the unit receives a file-stamped copy of the order disestablishing paternity.

441—99.39(598,600B) Satisfaction of accrued support.

99.39(1) *Disestablishment orders entered before May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity which was entered before May 21, 1997, the child support recovery unit shall take the following action concerning unpaid support assigned to the department.

a. The child support recovery unit shall satisfy only unpaid support assigned to the department and only if:

(1) For actions under Iowa Code section 600B.41A, blood or genetic testing was done and a guardian ad litem was appointed for the child.

(2) For actions under Iowa Code section 598.21, the written statement was filed and a guardian ad litem was appointed for the child.

b. The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, the child support recovery unit is not prevented from satisfying amounts due the department.

c. The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court. If the court later determines that paternity was incorrectly disestablished, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(2) *Disestablishment orders entered on or after May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity which was entered on or after May 21, 1997, the child support recovery unit shall take the following action concerning unpaid support:

a. If the order also contains a provision satisfying unpaid support, the unit shall adjust its records to show unpaid support is paid.

b. If the order does not contain a provision satisfying unpaid support, the unit shall satisfy only unpaid support assigned to the department. The unit shall notify the party who petitioned the court for disestablishment that this is the only support the unit can satisfy.

(1) The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver notice, the child support recovery unit is not prevented from satisfying amounts due the department.

(2) The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate court. If the court later determines that paternity was incorrectly disestablished, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(3) *Termination of paternity.* If the court entered an order dismissing a disestablishment of paternity action on or before May 21, 1997, this subrule applies. Upon receipt of a file-stamped copy of an order terminating paternity under the requirements of Iowa Code section 600B.41A, the child support recovery unit shall take the following action concerning unpaid support assigned to the department:

a. The child support recovery unit shall satisfy only unpaid support assigned to the department.

b. The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, the child support recovery unit is not prevented from satisfying amounts due the department.

c. The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court. If the court later determines that paternity was incorrectly terminated, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(4) *Previously collected moneys.* The child support recovery unit shall not return any moneys previously paid on the judgment.

These rules are intended to implement Iowa Code section 598.21, subsection 4A, and Iowa Code section 600B.41A.

441—99.40 Reserved.

DIVISION III
ADMINISTRATIVE ESTABLISHMENT OF SUPPORT
[Prior to 9/1/93, see 441—95.11(252C)]

441—99.41(252C) Establishment of an administrative order.

99.41(1) *When order may be established.* The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child's caretaker.

99.41(2) *Support debt.* When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and owed to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

99.41(3) *Notice to responsible person.* When the bureau chief establishes a support debt against a responsible person, a notice of child support debt shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice shall include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice shall also inform the responsible person which of these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice shall include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances shall result in the entry of a default judgment for support.

99.41(4) *Negotiation conference.* The responsible person may, within ten calendar days after being served the notice of child support debt, request a negotiation conference with the office of the child support recovery unit which sent the notice.

99.41(5) *Amount of support obligation.* The child support recovery unit shall determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

a. Any deviation from the guidelines shall require a written finding by the bureau chief.

b. Reserved.

99.41(6) Reserved.

99.41(7) *Court hearing.* Either the responsible person or the child support recovery unit may request a court hearing regarding the establishment of a support obligation through the administrative process.

a. The request for a hearing by the responsible person shall be in writing and sent to the office of the child support recovery unit which sent the original notice of the support debt by the latest of the following:

(1) Thirty days from the date of service of the first notice of support debt.

(2) Ten days from the date of the negotiation conference.

(3) Thirty days from the date the second notice and finding of financial responsibility is issued.

(4) Ten days from the date of issuance of the conference report if the bureau chief does not issue a second notice and finding of financial responsibility after a conference was requested.

b. When a request for a court hearing is received from the responsible person, within the time limits allowed, or is made by the child support recovery unit, the bureau chief shall schedule or request that the hearing be scheduled in the district court in the county:

(1) Where the dependent child resides if the child resides in Iowa.

(2) Where the responsible person resides if the child for whom support is sought resides in another state or the sole purpose of the administrative order is to secure a judgment for the time period that public assistance was expended by the state on behalf of the family or child.

99.41(8) *Exception to time limit.* The bureau chief may accept and respond to written requests for a court hearing beyond the time limits allowed in this rule.

99.41(9) Entry of order. If no request for a hearing is received from the responsible person at the local office of the child support recovery unit, or made by the unit, the bureau chief may prepare an order for support and have it presented ex parte to the court for approval.

a. The attorney for the child support recovery unit shall present the order and other documents supporting the entry of the ex parte order to the court for review and approval. Pursuant to Iowa Code chapter 252C, the court shall approve the order unless defects appear in the order or supporting documents.

b. The bureau chief shall file a copy of the approved order with the clerk of the district court.

c. The bureau chief shall send a copy of the filed order by regular mail, to the caretaker's last-known address, to the responsible person's last-known address or the caretaker's or the responsible person's attorney pursuant to the provisions of Iowa Code chapter 252C within 14 days after approval and issuance of the order by the court.

99.41(10) Force and effect. Once the order has been signed by the judge and filed, it shall have all the force and effect of an order or decree entered by the court. Unless otherwise specified, the effective date of the support obligation shall be the twentieth day following the date the order is prepared by the unit.

99.41(11) Modification by bureau chief. The bureau chief may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

This rule is intended to implement Iowa Code chapter 252C.
[ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.42 to 99.60 Reserved.

DIVISION IV
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS
[Prior to 9/1/93, see 441—98.51(73GA,ch1244) to 98.60(73GA,ch1244)]

441—99.61(252B,252H) Definitions.

"Guidelines" means the most current guidelines and criteria prescribed by the Iowa Supreme Court for determining the amount of child support to be awarded.

"Parent" means a person who is a responsible person or a caretaker, as those terms are defined in rule 441—95.1(252B).

"Recipient of service" means a person receiving foster care services, or a recipient of family investment program assistance or Medicaid benefits whose child support or medical support is assigned, or a person who is not receiving public assistance but who is entitled to child support enforcement services pursuant to Iowa Code section 252B.4.

441—99.62(252B,252H) Review of permanent child support obligations. Permanent child support obligations that are ongoing and being enforced by the child support recovery unit or the child support agency of another state shall be reviewed by the unit to determine whether or not to adjust the obligation. The unit shall determine the appropriate obligation amount using the child support guidelines. Iowa must have continuing, exclusive jurisdiction to modify the order under Iowa Code chapter 252K.

99.62(1) Periodic review. A permanent child support obligation being enforced by the child support recovery unit and meeting the conditions in Iowa Code section 252H.12 may be reviewed upon the initiative of the unit if:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The support order does not already contain medical support provisions.

c. A review is otherwise necessary to comply with state or federal law.

99.62(2) Review by request. A review shall be conducted upon the request of the child support recovery agency of another state or upon the written request of either parent subject to the order submitted on Form 470-2749, Request to Modify a Child Support Order. One review may be conducted every two

years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

99.62(3) Review outcome.

a. Procedures to adjust the support obligation shall be initiated only when the financial and other information available to the child support recovery unit indicates that the:

(1) Present child support obligation varies from the Iowa Supreme Court mandatory child support guidelines by more than 20 percent, and

(2) Variation is due to a change in financial circumstances which has lasted at least three months and can reasonably be expected to last for an additional three months.

b. Procedures to modify a support order may be initiated when the order does not include provisions for medical support.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.63(252B,252H) Notice requirements. The child support recovery unit shall provide written notification to each parent affected by a permanent child support obligation being enforced by the child support recovery unit as follows:

99.63(1) Notice of right to request review. The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification shall be provided on Form 470-0188, Application For Nonassistance Support Services, Form 470-1981, Notice of Continued Support Services, Form 470-3078, Availability of Review and Adjustment Services, or through another printed or electronic format.

99.63(2) Notice of review. One of the following shall apply:

a. At least 15 days before the review is conducted, the child support recovery unit shall serve notice of its intent to review the order on each parent affected by the child support obligation. This notice shall include a request that the parties complete a financial statement and provide verification of income. The notice shall be served in accordance with Iowa Code section 252B.26 or 252H.15.

b. If the conditions of Iowa Code section 252H.14A(1) are met, the unit may conduct a review using information accessible to the unit without:

(1) Issuing a notice under paragraph 99.63(2)“*a.*,” or

(2) Requesting additional information from the parent.

99.63(3) Notice of decision. After the child support recovery unit completes the review of the child support obligation in accordance with rule 441—99.62(252B,252H), the unit shall issue a notice of decision in accordance with Iowa Code section 252H.14A or 252H.16 stating whether or not an adjustment is appropriate and, if so, the unit’s intent to enter an administrative order for adjustment.

a. Rescinded IAB 2/5/03, effective 4/1/03.

b. Rescinded IAB 2/5/03, effective 4/1/03.

99.63(4) Challenges to outcome of review. Each parent shall be allowed to request a second review challenging the determination of the child support recovery unit. The procedure for challenging the determination is as follows:

a. The parent challenging the determination shall submit the request for a second review in writing to the child support recovery unit stating the reasons for the request and providing written evidence necessary to support the challenge. The request must be submitted:

(1) Within 10 days from the date of a notice of decision issued pursuant to Iowa Code section 252H.16, or

(2) Within 30 days from service of a notice of decision issued pursuant to Iowa Code section 252H.14A.

b. The child support recovery unit shall review the written evidence submitted with the request and all financial information available to the unit and make a determination of one of the following:

(1) Rescinded IAB 2/5/03, effective 4/1/03.

(2) To enter an administrative order for adjustment of the obligation.

(3) That adjustment of the child support obligation is inappropriate.

c. The unit shall send written notice of the outcome of the second review to each parent affected by the child support obligation at the parent's last-known mailing address.

d. For a review initiated under Iowa Code section 252H.15, if either parent disputes the second decision, the objecting parent may request a court hearing within 15 days from the date the notice of decision is issued or within 10 days of the date the second notice of decision is issued, whichever is later.

e. For a review initiated under Iowa Code section 252H.14A, either parent may request a court hearing within 10 days of the issuance of the second notice of decision.

f. If the unit receives a timely written request or the unit determines that a court hearing is necessary, the unit shall certify the matter to the district court. An objecting parent may seek recourse by filing a private petition for modification through the district court.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.64(252B,252H) Financial information. The child support recovery unit shall attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be reviewed necessary to conduct the review.

99.64(1) *Financial statements.* Except for a review initiated under Iowa Code section 252H.14A, both parents subject to the order to be reviewed shall provide a financial statement and verification of income within ten days of service of the notice of the unit's intent to review the obligation. If a review is initiated under Iowa Code section 252H.14A and the first notice of decision is challenged as described in subrule 99.63(4), both parents shall be requested to provide a financial statement and verification of income within ten days of the unit's request.

a. Verification of income shall include, but not be limited to, the following: copies of state and federal income tax returns, W-2 statements, pay stubs, or a signed statement from an employer or other source of income.

b. The child support recovery unit may also request that the parent requesting review provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if the parent possesses sufficient information to do so.

99.64(2) *Independent sources.* The child support recovery unit may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed.

a. These resources include, but are not limited to, the following: the Iowa workforce development department, the Iowa department of revenue, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

b. In the absence of other verification of income and deductions allowed under the mandatory support guidelines, the child support recovery unit may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent from the gross earned income confirmed by an independent source. A parent may challenge this estimate by providing verification of actual earned income deductions.

99.64(3) *Availability of medical insurance.* Both parents subject to the order to be reviewed shall provide documentation regarding the availability of health insurance coverage for the children covered under the order, and the cost of the coverage, within ten days of a written request by the child support recovery unit. Verification may include, but not be limited to: a copy of the health benefit plan including the effective date of the plan, a letter from the employer detailing the availability of health insurance, or any other source that will serve to verify health insurance information and the cost of the coverage.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.65(252B,252H) Review and adjustment of a child support obligation.

99.65(1) *Conducting the review.* The child support recovery unit or its attorney shall review the case for administrative adjustment of a child support obligation unless it is determined that any of the following exist:

a. The location of one or both of the parents is unknown.

b. The variation from the Iowa Supreme Court mandatory child support guidelines is based on any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

c. The variation from the Iowa Supreme Court mandatory child support guidelines is due to a voluntary reduction in net monthly income attributable to the actions of the parent. The unit may request and the parent shall supply verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

d. The criteria of rule 441—99.62(252B,252H) are not met.

e. The end date of the order is less than 12 months in the future or the youngest child is 17½ years of age.

99.65(2) Civil action. The review and adjustment action that is certified to court for hearing shall proceed as an ordinary civil action in equity, and the child support recovery unit attorney shall represent the state of Iowa in those proceedings.

99.65(3) Private counsel. After the notice has been issued as described in subrule 99.63(2) or 99.63(3), any party may choose to be represented personally by private counsel. Any party who retains private counsel shall notify the child support recovery unit of this fact in writing.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.66(252B,252H) Medical support. The child support recovery unit, or its attorney, shall review the medical support provisions contained in any permanent child support order which is subject to review under rule 441—99.65(252B,252H) and shall include in any adjustment order a provision for medical support as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, Division I, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.67(252B,252H) Confidentiality of financial information. Financial information provided to the child support recovery unit by either parent for the purpose of facilitating the review and adjustment process may be disclosed to the other parties to the case, or to the district court, as follows:

99.67(1) Financial statements. Statements of financial status may be disclosed to either party.

99.67(2) Other documentation. Supporting financial documentation such as state and federal income tax returns, pay stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court after the notice has been issued as described in subrule 99.63(2) or 99.63(3), unless otherwise prohibited by state or federal law.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.68(252B,252H) Payment of service fees and other court costs. Payment of fees for administrative review or service of process and other court costs associated with the review and adjustment process is the responsibility of the party requesting review unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified.

A requesting party who is indigent or receiving public assistance may request deferral of fees and costs. For the purposes of the division, “indigent” means that the requesting party’s income is 200 percent or less than the poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

441—99.69(252B,252H) Denying requests. A request for review by a parent subject to the order may be denied for the following reasons:

99.69(1) Rescinded IAB 8/2/95, effective 10/1/95.

99.69(2) It has been less than two years since the support order was filed with the court, last modified, or last reviewed for the purpose of adjustment.

99.69(3) The child support recovery unit or a child support agency of another state is not providing enforcement services for an ongoing support obligation under the order for which the review has been requested.

99.69(4) The request is based entirely on issues such as custody or visitation rights, which are not directly related to child support.

99.69(5) The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

99.69(6) The request is for the review of a temporary support order.

441—99.70(252B,252H) Withdrawing requests. If the requesting party contacts the child support recovery unit to withdraw the request, the child support recovery unit shall proceed as follows:

99.70(1) *Best interests of the child.* Rescinded IAB 2/5/03, effective 4/1/03.

99.70(2) *Consent of both parties.* The child support recovery unit shall notify the nonrequesting party of the requesting party's desire to withdraw the request.

a. If the nonrequesting party indicates a desire to continue the review, the unit shall proceed with the review and adjust the obligation, if appropriate.

b. If the nonrequestor indicates a desire to stop the process or fails to respond within ten days to the notification of the request to withdraw, the unit shall notify all parties that the review and adjustment process has been terminated.

99.70(3) *Effect of withdrawal.* If a request is successfully withdrawn pursuant to subrule 99.70(2), a later request by either party shall be subject to the limitations of subrule 99.62(2).

441—99.71(252H) Effective date of adjustment. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation amount shall be effective on the first date that the periodic payment is due under the order being modified after the unit files the adjustment order with the court.

These rules are intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21C(2) and Iowa Code chapter 252H.

441—99.72 to 99.80 Reserved.

DIVISION V
ADMINISTRATIVE MODIFICATION

PREAMBLE

This division implements those provisions of Iowa Code chapter 252H which provide for administrative modification of support obligations when there is a substantial change in the financial circumstances of a party and when both parties agree to a change in an obligation through a cost-of-living alteration. These rules also provide for use of the administrative procedure to modify orders to add children, correct errors, set support which had previously been reserved or set at zero dollars, and increase support for minor obligors who do not comply with statutory educational or parenting class requirements or who are no longer minors.

441—99.81(252H) Definitions.

“Additional child” means a child to be added to an existing support order covering another child of the same parents.

“Born of a marriage” means a child was born of a woman who was married at the time of conception, birth, or at any time during the period between conception and birth of the child pursuant to Iowa Code chapter 252A and Iowa Code section 144.13.

“Cost-of-living alteration” means a change in an existing child support order that equals an amount which is the amount of the support obligation following application of the percentage change of the consumer price index for all urban consumers, United States city average, as published in the Federal Register by the federal Department of Labor, Bureau of Labor Statistics, pursuant to Iowa Code section 252H.2.

“*Guidelines*” means the most current guidelines and criteria prescribed by the Iowa Supreme Court for determining the amount of child support to be awarded.

“*Parent*” means a person who is a responsible person or a caretaker, as those terms are defined in rule 441—95.1(252B).

“*Substantial change of circumstances,*” for the purposes of this division, means:

1. There has been a change of 50 percent or more in the net income of a parent, as determined by comparing the new net income with the net income upon which the current child support obligation was based, and

2. The change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months, pursuant to Iowa Code section 252H.18A.

441—99.82(252H) Availability of service. The child support recovery unit shall provide the services described in this division for a support order originally entered or a foreign order registered in the state of Iowa. The order must be one which:

1. Involves at least one child born of a marriage or one child for whom paternity has been legally established.

2. Is being enforced by the unit in accordance with Iowa Code chapter 252B.

3. Is subject to the jurisdiction of this state for the purposes of modification.

4. Is not subject to or is not appropriate for review and adjustment.

5. Provides for support of at least one child under the age of 18 or a child between the ages of 18 and 19 years who is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person’s reaching 19 years of age.

6. Has an obligation ending more than 12 months in the future.

7. Involves parents for whom the location of both parents is known.

441—99.83(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—99.82(252H) may be modified at the initiative of the unit, or upon written request of either parent subject to the order submitted on Form 470-2749, Request to Modify a Child Support Order. Any action shall be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order shall not be modified. The procedures used by the child support recovery unit to determine if a modification is appropriate are as follows:

99.83(1) Substantial change of circumstances. Procedures to modify the support obligation may be initiated outside the minimum time frame described in subrule 99.62(2) if a request is received from either parent and if the parent has submitted verified documentation of a substantial change in circumstances which indicates both of the following:

a. A change of at least 50 percent in the net income of a parent as defined by guidelines. The new net income will be compared to the net income upon which the current child support obligation was based.

b. The change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

The unit shall review the request and documentation and, if appropriate, issue a notice of intent to modify as described in subrule 99.84(1).

99.83(2) Adding provisions for additional children. Procedures to modify the support obligation may be initiated if:

a. A parent requests, in writing, or the unit determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the guidelines pursuant to Iowa Code section 598.21B and Iowa Code section 252B.7A; and

b. Paternity has been legally established.

When adding a child to an order through administrative modification, medical support provisions shall apply to the additional child.

99.83(3) *Reserved, zero-dollar-amount, or medical-provisions-only orders.* Procedures to modify the support obligation may be initiated if:

a. A parent requests a modification in writing or the unit determines that it is appropriate to include a support amount based on the guidelines; and

b. The original order:

(1) Reserved establishment of an ongoing, dollar-amount support obligation giving a specific reason other than lack of personal jurisdiction over the obligor, or

(2) Set the amount at zero, or

(3) Was for medical provisions only.

99.83(4) *Corrections.* Procedures to modify the support obligation may be initiated if:

a. An error or omission pertaining to child support or medical provisions was made during preparation or filing of a support order; and

b. A necessary party requests a modification or the unit determines that a modification to correct an error or omission is appropriate.

99.83(5) *Noncompliance by minor obligors.* The unit may initiate procedures to modify a support order if a parent requests modification in writing or the unit determines that it is appropriate when:

a. An obligor who is under 18 years of age fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section 598.21G; or

b. An obligor who is 19 years of age or younger fails to provide proof of compliance with education requirements described in Iowa Code section 598.21B(2) “e”; or

c. The obligor no longer meets the age requirements as defined in Iowa Code section 598.21B(2) “e” or 598.21G.

99.83(6) *Cost-of-living alteration.* A support order may be modified to provide a cost-of-living alteration if all the following criteria are met:

a. A parent requests a cost-of-living alteration in writing.

b. At least two years have passed since the order was filed with the court or last reviewed, modified, or altered.

c. The nonrequesting parent signs a statement agreeing to the cost-of-living alteration of the support order.

d. Each parent signs a waiver of personal service accepting service by regular mail.

e. The current support order addresses medical support for the children.

f. A copy of each affected order is provided, if the unit does not already have copies in its files.

[ARC 9352B, IAB 2/9/11, effective 4/1/11; ARC 1357C, IAB 3/5/14, effective 5/1/14]

441—99.84(252H) Notice requirements. The child support recovery unit shall provide written notification to parents affected by a permanent child support obligation being enforced by the unit as follows:

99.84(1) *Notice of intent to modify.* When a request for administrative modification is received or the unit initiates an administrative modification, the unit shall provide written notice to each parent of its intent to modify.

a. The notice shall include the legal basis and purpose for the action; a request for income or other information necessary for the application of guidelines (if applicable); an explanation of the legal rights and responsibilities of the affected parties, including time frames; and procedures for contesting the action.

b. The unit shall take the following actions to notify parents:

(1) Rescinded IAB 2/5/03, effective 4/1/03.

(2) If the modification is based on subrules 99.83(1) through 99.83(5), notice shall be provided to each parent. The notice shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26 or 252H.19.

(3) If the modification is based on provision of a cost-of-living alteration as established at subrule 99.83(6) and the required documentation is included, the child support recovery unit shall notify each parent of the amount of the cost-of-living alteration by regular mail to the last-known address of each parent or, if applicable, each parent's attorney. The notice shall include:

1. The method of determining the amount of the alteration pursuant to Iowa Code section 252H.21.
2. The procedure for contesting a cost-of-living alteration by making a request for review of a support order as provided in Iowa Code section 252H.24.
3. A statement that either parent may waive the 30-day notice waiting period. If both parents waive the notice waiting period, the unit may prepare an administrative order altering the support obligation.

99.84(2) *Notice of decision to modify.* The unit shall issue a notice of its decision to modify the support order to each parent affected by the support obligation at each parent's (or attorney's) last-known address. The notice shall contain information about whether the unit will continue or terminate the action and the procedures and time frames for contesting the action by requesting a court hearing pursuant to 441—subrule 99.86(2).

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.85(252H) Financial information. The child support recovery unit may attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be modified that is necessary to conduct an analysis and determine support. The unit does not require financial information if the request is for a cost-of-living alteration.

99.85(1) *Financial statements.* Parents subject to the order shall provide a financial statement and verification of income within ten days of a written request by the unit.

a. If the modification action is based on a substantial change of circumstances:

(1) The requesting party must provide Form 470-2749, Request to Modify a Child Support Order, and documentation that proves the amount of change in net income and the date the change took place, such as:

1. Copies of state and federal income tax returns, W-2 statements, or pay stubs, or
2. A signed statement from an employer or other source of income.

(2) The unit shall review the request and documentation. If appropriate, the unit shall issue to each parent a notice of intent to modify the order as stated in subrule 99.84(1) and a financial statement. Each parent shall complete and sign the financial statement and return it to the unit with verification of income and deductions as described in subrule 99.1(3).

b. The unit may require a completed and signed financial statement and verification of income from each parent as described in subrule 99.1(3) if the modification is based on:

- (1) Addition of a child;
- (2) Changing a reserved or zero-dollar-amount obligation;
- (3) Changing a medical-provisions-only obligation;
- (4) Making a correction (if financial information is needed); or
- (5) Noncompliance by a minor obligor as defined in Iowa Code section 598.21B(2) "e" or 598.21G.

c. The unit may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if the parent possesses sufficient information to do so.

d. The unit may also use the most recent wage rate information published by the department of workforce development or the median income for parents on the unit caseload to estimate the net earned income of a parent when a parent has failed to return a completed financial statement when requested and complete and accurate information is not readily available from other sources.

e. Self-employment income will be determined as described in subrule 99.1(5).

99.85(2) *Independent sources.* The child support recovery unit may use other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be modified as described in rule 441—99.1(234,252B).

99.85(3) Guidelines calculations.

a. The unit shall determine:

- (1) The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and
- (2) Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

b. If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section 598.21B(2)“e” or 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage unless the parent’s education, experience, or actual earnings justify a higher income.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.86(252H) Challenges to the proposed modification action. For modification actions based on subrules 99.83(1) through 99.83(5), each parent shall have the right to request a conference to contest the proposed modification. Either parent, or the unit, may also request a court hearing. For requests made based on subrule 99.83(6), either parent may contest the cost-of-living alteration by making a request for a review and adjustment of the support order.

99.86(1) Conference. Either parent may contest the proposed modification based on subrules 99.83(1) through 99.83(5) by means of a conference with the office of the unit that issued the notice of intent to modify.

- a. Only one conference shall be held per parent.
- b. The request must be made within ten days of the date of service of the notice of intent to modify.
- c. The office that issued the notice of intent to modify shall schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference.
- d. Reasons for contesting the modification include, but are not limited to, mistake of fact regarding the identity of one of the parties or the amount or terms of the modification.
- e. The child support recovery unit may conduct the conference in person or by telephone.
- f. If the party who requested the conference fails to attend the conference, only one alternative time shall be scheduled by the child support recovery unit.
- g. The results of a conference shall in no way affect the right of either party to request a court hearing pursuant to subrule 99.86(2).
- h. Upon completion of the conference, the unit shall issue a notice of decision to modify as described in subrule 99.84(2).

99.86(2) Court hearing.

a. Either parent, or the unit, may contest the proposed modification, based on subrules 99.83(1) through 99.83(5), by requesting a court hearing within the latest of any of the following time periods:

- (1) Twenty days from the date of successful service of the notice of intent to modify,
- (2) Ten days from the date scheduled for a conference, or
- (3) Ten days from the date of issuance of a notice of decision to modify.

b. If the unit receives a timely written request, the unit shall certify the matter to the district court as described in Iowa Code section 252H.8.

c. If a timely request is not received, if waiting periods have been waived, or if the notice periods have expired, the unit shall prepare an administrative order as provided in Iowa Code section 252H.9.

99.86(3) Contesting a proposed cost-of-living alteration. Either parent may contest a cost-of-living alteration within 30 days of the date of the notice of intent to modify by making a request for a review of the support order as provided in Iowa Code section 252H.13.

a. If the unit receives a timely written request for review, the unit shall terminate the cost-of-living alteration process and proceed with the review and adjustment process.

b. If a timely request is not made, or the notice waiting period has been waived by both parties, or the notice period has expired, the unit shall prepare an administrative order as provided in Iowa Code section 252H.24.

441—99.87(252H) Voluntary reduction of income.

99.87(1) The unit shall not modify the support order based on a substantial change of circumstances if a change in income is:

- a.* Due to a voluntary reduction in net monthly income attributable to the actions of the party, or
- b.* Due to any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

99.87(2) The unit may request verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

[ARC 9352B, IAB 2/9/11, effective 4/1/11]

441—99.88(252H) Effective date of modification. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation shall be effective on the first date that the periodic payment is due under the order being modified after the unit files the modification order with the court. If the modification is based on a reserved, zero-dollar-amount, or medical-provisions-only obligation, the new obligation shall be effective 20 days after generation of the administrative modification order.

441—99.89(252H) Confidentiality of financial information. Financial information provided to the child support recovery unit by either parent for the purpose of facilitating the modification process may be disclosed to the other parties to the case, or the district court, as follows:

99.89(1) *Financial statements.* The financial statement or affidavit may be disclosed to either party.

99.89(2) *Other documentation.* Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court unless otherwise prohibited by state or federal law.

441—99.90(252H) Payment of fees. Payment of service of process and other costs associated with the modification process is the responsibility of the party requesting modification unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified.

A requesting party who is indigent or receiving public assistance may request deferral of fees and costs. For the purposes of this division, “indigent” means that the requesting party’s income is 200 percent or less than the poverty level for one person as defined by the United State Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

441—99.91(252H) Denying requests. A request for modification by a parent subject to the order may be denied if the criteria in rule 441—99.82(252H) are not met or the following conditions exist:

99.91(1) *Nonsupport issues.* The request is based entirely on issues such as custody or visitation rights.

99.91(2) *Request only for delinquent support.* The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

99.91(3) *Temporary order.* The request is for the modification of a temporary support order.

99.91(4) *Two-year time frame.* The request is for a cost-of-living alteration and it has been less than two years since the order was filed with the court or last reviewed, modified, or altered.

99.91(5) *Change of circumstances.* The request is based on a substantial change in circumstances and:

a. The requestor’s net income has not changed by at least 50 percent, as required in paragraph 99.83(1) “*a,*” or

b. The requestor has not provided adequate documentation of the change in income, as required in subrule 99.85(1), or

c. The change in income has not yet lasted for three months, as required in paragraph 99.83(1) “*b,*” or

d. The change in income is not expected to last another three months, as required in paragraph 99.83(1) “*b.*,” or

e. The change in income is a voluntary reduction attributable to the actions of the party, as explained in rule 441—99.87(252H), or

f. The change in income is due to material misrepresentation of fact, as explained in rule 441—99.87(252H).

441—99.92(252H) Withdrawing requests. If the requesting party contacts the child support recovery unit to withdraw the request, the child support recovery unit shall notify the nonrequesting party of the requesting party’s desire to withdraw the modification request. If the nonrequesting party indicates, in writing, a desire to continue with the modification process, the child support recovery unit shall proceed, and if appropriate, modify the support order. If there is no response from the nonrequesting party or if the nonrequesting party also wants the process to end, the unit shall end the modification process. If the unit initiated the modification action, the unit may terminate the process if, after notifying both parents, neither parent indicates a desire to continue with the modification.

These rules are intended to implement Iowa Code chapter 252H.

441—99.93 to 99.100 Reserved.

DIVISION VI
SUSPENSION AND REINSTATEMENT OF SUPPORT

441—99.101(252B) Definitions. As used in this division, unless the context otherwise requires:

“*Child*” shall mean the same as defined in Iowa Code section 252E.1.

“*Child support recovery unit*” or “*unit*” shall mean the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“*Obligee*” shall mean the same as defined in rule 441—98.1(73GA,ch1224).

“*Obligor*” shall mean the same as defined in rule 441—98.1(73GA,ch1224).

“*Public assistance*” shall mean the same as defined in Iowa Code section 252H.2.

“*Spousal support*” shall mean either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

“*Step change*” shall mean a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“*Support*” shall mean the same as defined in Iowa Code section 252D.16, and shall include spousal support and support for a child.

“*Support for a child*” shall mean either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

“*Support order*” shall mean the same as a “court order” as defined in Iowa Code section 252C.1.

441—99.102(252B) Availability of service. The child support recovery unit shall provide the services described in this division only with respect to support orders entered or registered in this state for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

99.102(1) Services described in this division shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

99.102(2) Services described in this division shall be provided only if no prior request for suspension of all or part of a support order has been filed with the unit during the two-year period preceding the request. However, if the request was filed during the two-year period preceding July 1, 2005, and the unit denied the request because the suspension did not apply to all children for whom support is ordered, the unit shall provide suspension services if the parents jointly file a request on or after July 1, 2005.

441—99.103(252B) Basis for suspension of support.

99.103(1) *Reconciliation.* The child support recovery unit shall assist an obligor and obligee in suspending support for a child and, if contained in a child support order, spousal support, when the obligor and obligee are reconciled and are residing together, with at least one child entitled to support under the order, in the same household.

99.103(2) *Change in residency.* The unit shall assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, the unit shall not assist in suspending any spousal support provisions of a support order on this basis.

99.103(3) *Affected children.* The unit shall assist an obligor and obligee in suspending all or part of a support order as provided in this division if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, the unit shall assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, the unit shall assist in suspending the support obligations for children for whom the basis for suspension applies.

99.103(4) *Limited to current support.* The provisions in this division for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

99.103(5) *Duration of conditions.* The basis for suspension of support as provided in subrule 99.103(2) and subrule 99.103(3) must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by the child support recovery unit.

441—99.104(252B) Request for assistance to suspend.

99.104(1) *Submitting a request.* The obligor and obligee subject to a support order being enforced by the unit may request that the unit assist in having the ongoing support provisions suspended as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-3033, Request to Suspend Support, and Form 470-3032, Affidavit Regarding Suspension of Support.

b. The unit shall provide Forms 470-3032 and 470-3033 to the obligor or obligee upon request.

c. Both forms must be signed by both the obligor and the obligee affected by the order to be suspended. In the event that current support payments are assigned to an individual or entity other than the obligee named in the original order, but may revert to the original obligee at a future date without court action, both the original obligee and the current assignee must sign both forms.

d. Form 470-3032 must be notarized.

e. The request shall contain sufficient information to allow the local unit to identify the court order and parties involved, and a statement that the obligor and obligee expect the basis for suspension to continue for not less than six months.

f. If the obligor and obligee are requesting suspension of more than one order at the same time, the obligor and obligee shall be required to submit only one copy of Form 470-3033, identifying each order the request involves; however, the obligor and obligee shall be required to submit a separate, signed and notarized affidavit, Form 470-3032, for each order.

99.104(2) *Acknowledging requests.* The local unit providing services shall issue a written notice to the obligor and obligee indicating whether a properly completed request is accepted or denied.

a. This notice shall be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice shall be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice shall be issued to the obligor and obligee at their respective last known addresses.

c. A notice denying a request shall indicate the reason for denial.

99.104(3) *Denying requests.* A request for suspension shall be denied when:

- a. The conditions specified in Iowa Code section 252B.20, rule 441—99.102(252B), or rule 441—99.103(252B) are not met.
- b. and c. Rescinded IAB 12/7/05, effective 2/1/06.
- d. Denial of a request is not subject to appeal or review under Iowa Code chapter 17A.

441—99.105(252B) Order suspending support. After approving a request to suspend support, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

99.105(1) When the basis for suspension is reconciliation, the suspension shall apply to any ongoing support provisions of the order, including medical support, with respect to any child residing with the parents and with respect to any spouse or former spouse entitled to support under the order to be suspended.

99.105(2) When the basis for suspension is a change in residency of one or more of the children entitled to support, the suspension shall apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor. Any spousal support also ordered in the same support order shall remain unaffected by this action.

99.105(3) A copy of the filed order shall be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

441—99.106(252B) Suspension of enforcement of current support. The child support recovery unit shall suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. The unit shall continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—99.107(252B) Request for reinstatement. The unit may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code section 252B.20.

99.107(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to the child support recovery unit. The request must indicate that reinstatement is being requested, the reason for reinstatement, and contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

99.107(2) The unit may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

99.107(3) The unit shall issue a written notice to any obligor or obligee requesting reinstatement, approving or denying the request. This notice shall be sent to the last known address of the requesting party by first-class regular mail and shall indicate any reason for denial.

99.107(4) A properly completed request for reinstatement shall be denied when any of the following conditions exist:

- a. The request is made by someone other than the obligor, the obligee, or the obligor's or obligee's attorney.
- b. Rescinded IAB 12/7/05, effective 2/1/06.
- c. The unit is no longer providing enforcement services for the suspended order.
- d. The request is received more than six months since the date of the filing of the order suspending support.
- e. The request is for partial reinstatement of the suspended support order for some but not all of the children and the order does not contain a step change.
- f. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

441—99.108(252B) Reinstatement. The child support recovery unit shall follow the procedures in Iowa Code section 252B.20, in seeking to have the court reinstate a support order.

99.108(1) The unit shall request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 99.105(1) and if the unit receives a properly completed request from the obligor or the obligee.

99.108(2) The unit shall seek to have the previously suspended support for a child reinstated under this division when the conditions in paragraph “a” or “b” are met. This provision shall not prohibit any party, including the child support recovery unit, from taking other action to establish support as provided for by law.

a. The basis for suspension no longer applies to any of the children for whom support was suspended; or

b. The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

441—99.109(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, the unit shall also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

441—99.110(252B) Temporary suspension becomes final. The temporary suspension of a support order under this division shall become final if not reinstated in accordance with Iowa Code section 252B.20.

These rules are intended to implement Iowa Code section 252B.20.

[Filed 8/12/93, Notice 6/23/93—published 9/1/93, effective 11/1/93]

[Filed 7/12/95, Notice 5/24/95—published 8/2/95, effective 10/1/95]

[Filed 2/14/96, Notice 12/20/95—published 3/13/96, effective 5/1/96]

[Filed 7/10/96, Notice 6/5/96—published 7/31/96, effective 10/1/96]

[Filed 10/9/96, Notice 8/28/96—published 11/6/96, effective 11/1/97]

[Filed 10/15/97, Notice 8/13/97—published 11/5/97, effective 1/1/98]

[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]

[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 6/1/98]

[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]

[Filed 7/13/00, Notice 5/17/00—published 8/9/00, effective 10/1/00]

[Filed 1/9/03, Notice 11/13/02—published 2/5/03, effective 4/1/03]

[Filed 11/16/05, Notice 9/14/05—published 12/7/05, effective 2/1/06]

[Filed emergency 1/19/07—published 2/14/07, effective 1/20/07]

[Filed ARC 9352B (Notice ARC 9195B, IAB 11/3/10), IAB 2/9/11, effective 4/1/11]

[Filed ARC 1357C (Notice ARC 1228C, IAB 12/11/13), IAB 3/5/14, effective 5/1/14]

CHAPTER 2
GENERAL RULES OF PROCEDURE

486—2.1(10A) General procedures. The following rules of general procedure will apply to all appeals and hearings conducted by the employment appeal board. Unless otherwise specified by rules within the chapters on particular areas, these rules apply. If no rule covers a specific provision, the rules of civil procedure shall be used to provide guidance.

486—2.2(10A) Definitions. Definitions as used herein by the employment appeal board are as follows:

“Address of record” means address listed in the Iowa workforce development department’s unemployment decisions records.

“Aggrieved person” means an individual or company who has received an adverse ruling from an administrative law judge in a proceeding subject to appeal board review. It also means a company who has received a citation or citations from an OSHA inspector and wishes to contest that citation or citations. It also means a contractor who has been cited for failing to comply with the contractor registration laws and wishes to contest the citation.

“Appeal” means any instrument, including an online appeal submitted through the online appeal form available on the Iowa workforce development Web site, used to notify the employment appeal board that an aggrieved individual wishes to appeal a decision of an administrative law judge. The instrument must be in writing.

“Appeal board” means the employment appeal board.

“Claimant” is an individual who has filed a request for determination of insured status or a new claim for unemployment insurance benefits.

“Employer” is an individual, partnership or corporation who employed the claimant in the claimant’s base period, or was the last employer of the claimant or offered comparable suitable employment to a claimant, which the claimant refused.

“Filing date” means the date prescribed by statute or rule for an action required to be taken. The filing date will be the date the document is postmarked, if filed by U.S. Postal Service; the date of the faxed document, if filed by facsimile transmission; the date of the document, if the postmark is illegible; the earliest date the transmission indicates that it was submitted if filed via the online appeal form; or the date received, if filed by any other means. If filed by fax, the original copy of the document shall be mailed to the employment appeal board. If the document is filed by U.S. Postal Service and the document contains both a postal meter mark and a U.S. Postal Service postmark, the U.S. Postal Service postmark shall be used to determine the filing date.

“Good cause” cannot be defined in precise language because what is good cause in one circumstance may not be good cause in a different circumstance. It may be generally defined as that reasonable excuse given, under the circumstances of the case, to excuse an action which was not taken when it should have been taken. As an example, good cause for not appearing at a scheduled hearing would be if the individual had not received the notice of hearing in time to participate. The individual alleging good cause has the burden to establish that good cause did exist to excuse the failure to take the needed action.

“New or additional evidence” means any evidence, testimonial or documentary, which is filed after the date of the decision of the administrative law judge and which, if due diligence had been used, could have been presented to that administrative law judge. A request to file new or additional evidence, or both, must be made within ten days after the mailing of the notice to the parties that an appeal has been filed. Such request shall set forth the nature of the evidence, the materiality of such evidence, and the reasons why it was not introduced at the hearing before the administrative law judge.

“Remand request,” as interpreted by the employment appeal board, means a document indicating that the individual filing the document wishes the matter to be returned to the administrative law judge for a new hearing.

“*Work product*” means those documents produced by the agency which describe or portray the “mental impressions,” conclusions, opinions, or legal theories concerning the determination made by the agency as a result of agency investigation or inquiry.
[ARC 1358C, IAB 3/5/14, effective 4/9/14]

486—2.3(10A) Ex parte communications.

2.3(1) An ex parte communication is an oral or written communication relating directly to the facts or legal questions at issue in a contested case proceeding which is made by a party in interest to the employment appeal board without the knowledge of or outside the presence of the other parties and with the object of affecting the outcome of the case.

2.3(2) Ex parte communication does not include:

- a. Statements given by the parties to claims representatives for use in making the initial determination;
- b. Statements contained in any party’s appeal from an initial determination;
- c. Statements relating only to procedural or scheduling matters, such as requests for discovery, subpoenas, postponements or withdrawals of appeals; or
- d. Requests for clarification of a legal issue involved in a contested case, but only to the extent of requesting information on the applicable law and not as to matters of fact.

2.3(3) Unless required for the disposition of ex parte matters specifically authorized by statute or rule, no party or its representative shall communicate directly or indirectly with the employment appeal board concerning a contested case before the board, nor shall any member of the employment appeal board communicate directly or indirectly with a party or its representative concerning any such issue of fact or law in a contested case unless:

- a. Each party or its representative is given written notification of the communication. Such notification shall contain a summary of the communication, if oral, or a copy of the communication, if written, as well as the time, place and means of communication.
- b. After notification, all parties have the right, upon written demand, to respond to the ex parte communication, including the right to be present and heard if an oral communication has not been completed. If the communication is written, or oral and completed, all other parties have the right, upon written demand, to a special hearing to respond to the ex parte communication.
- c. Whether or not any party requests the opportunity to respond to an ex parte communication made in violation of Iowa Code section 17A.17(2), the employment appeal board shall include such communication in the official record of the contested case.

These rules are intended to implement Iowa Code section 10A.601.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/16/89, Notice 11/16/88—published 3/8/89, effective 4/12/89]

[Filed emergency 6/20/90—published 7/11/90, effective 6/20/90]

[Filed 6/29/98, Notice 4/8/98—published 7/29/98, effective 9/2/98]

[Filed ARC 1358C (Notice ARC 1269C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 3
UNEMPLOYMENT INSURANCE APPEALS

486—3.1(10A) Appeals.

3.1(1) *Lower authority's decisions to employment appeal board.* A copy of each administrative law judge's decision, pertinent to unemployment insurance matters, shall be submitted to the employment appeal board on the date the decision is issued.

3.1(2) *Form and time of appeal.* A party aggrieved by a decision of an administrative law judge may appeal to the employment appeal board within 15 days from the date of the decision. The appeal shall state the grounds for the appeal. If sent by mail or courier, the appeal shall be addressed to Employment Appeal Board, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319. The appeal may also be filed in any office maintained by the workforce development department which processes claims for unemployment insurance. Appeals may also be filed by facsimile transmission (fax). If the appeal is filed by fax, the original copy shall be mailed to the employment appeal board at the above address. The date of the appeal is the date of the fax transmission. Appeals may also be filed online by completing and submitting an online appeal form available on the Iowa workforce development Web site.

3.1(3) *Procedure when an appeal is filed.* Upon receipt of notice of appeal, the entire record before the administrative law judge shall be forwarded to the employment appeal board. One copy of the testimony and evidence received by the administrative law judge shall be mailed to the parties or their designated representative. That mailing shall be identified by a transmittal of testimony and shall provide instructions for the filing of written briefs.

3.1(4) *Additional parties.* Whenever it appears that other parties should be joined in order to dispose of all issues, the employment appeal board shall so order and notify the parties of further procedures to be followed.

3.1(5) *Consolidation of proceedings.* Any number of cases before the employment appeal board may be consolidated for hearing, argument, consideration and decision when the facts and circumstances are the same or similar and no substantial right of any party will be prejudiced.

3.1(6) *Issues on appeal.* The employment appeal board may consider any issue raised by the action pertaining to the eligibility of an individual for unemployment insurance benefits. If new issues appear, different from those which are noticed in the appeal, the board may remand such issues to an administrative law judge for appropriate action, or in the interest of prompt administration of justice and without prejudicing the substantive rights of any party, may hear and decide any issue material to the appeal, even if not specifically indicated as a ground for appeal or not noticed for the administrative hearing.

3.1(7) *New or additional evidence.*

a. An application to present new or additional evidence shall be in writing and shall be filed within ten days after the date of mailing notice to the parties that an appeal has been filed.

b. The application to present new or additional evidence shall state the nature of the evidence, the materiality of such evidence, and the reasons why such evidence was not introduced at the hearing before the administrative law judge. No such evidence shall be considered by the board unless the board has ordered it admitted.

c. Whenever the board, on its own motion, or upon the application of a party, orders the taking of new or additional evidence, the board may schedule a hearing or remand the matter to an administrative law judge. The issues at such hearing shall be limited to those issues designated by the appeal board. The parties shall be notified ten days before the date of the hearing, specifying the place and time of the hearing.

d. Whenever the board holds the hearing, the parties may introduce such evidence as may be pertinent to the issues on which the board has directed the taking of evidence. All parties shall have the right to examine and cross-examine other parties and witnesses.

e. If only documentary evidence is to be admitted, a copy of the evidence shall be mailed by the board to each of the parties, and the parties shall be granted ten days to submit written arguments on that

evidence. The party which has not submitted the new evidence may submit rebuttal evidence to the new evidence.

3.1(8) *Postponement of hearing of appeals.* Applications for postponement of hearing of appeals, scheduled before the appeal board, shall be submitted in writing at least three days before the date of the scheduled hearing, and shall be granted at the discretion of the appeal board. Each party shall be granted only one postponement, except as determined by the chairperson of the appeal board.

3.1(9) *Adjournment and continuance.* Adjournment and continuance may be granted for good cause by the appeal board. Notice of the adjournment or continuance shall be given to all parties, at their last-known address according to the division's record.

3.1(10) *Hearing of appeals.* An appeal to the board may be considered and decided based upon the evidence in the record made before the administrative law judge or the appeal board. The board may schedule a hearing to permit the parties to offer oral or written argument, or both. The parties shall be notified by the appeal board of such hearing by notice at least ten days before the date of the hearing.

3.1(11) *Remand of appeals.* The appeal board may remand any claim or claims for any issue involved in the claim or pertaining to the claim to an administrative law judge for the taking of additional evidence as the appeal board may deem necessary.

3.1(12) *Taking of evidence.* If the appeal board decides that evidence shall be taken, such evidence may be taken before the appeal board. The hearing may be conducted by the appeal board, or the board may designate an attorney employed by the appeal board to conduct such hearing. The parties shall be notified of the time and date of the hearing and shall be provided with instructions about how to participate in the hearing. The proceedings shall be recorded and made a part of the record.

3.1(13) *Written briefs and oral arguments.* The parties shall be granted the opportunity to submit written briefs on all issues to be decided. The briefs and arguments shall be submitted within seven days from the date of mailing of the transcript of testimony, in cases where an evidentiary hearing was held. In those cases where no hearing was held, the parties shall have ten days to submit written briefs and the opportunity to show good cause for not appearing. A request for extension of time to submit briefs must be made within the time set for submission of the briefs. Each party shall be granted one seven-day extension without justification. Requests for second extensions must be for good cause and will be granted at the discretion of the chairperson of the appeal board.

The appeal board may afford the parties an opportunity to present oral arguments and may limit the time of oral arguments. Requests to present oral arguments shall be submitted within ten days from the date of mailing of the acknowledgment of appeal and shall state the reasons for the oral argument.

3.1(14) *Nonappearance at appeal hearing.* If the appellant fails to appear at a scheduled hearing and does not submit good cause for failing to appear within ten days from the date of the hearing, the appeal board shall issue a decision based upon the evidence contained in the record.

3.1(15) *Withdrawal of appeal.* Any appeal may be withdrawn by the appellant, by written request, anytime before a decision is issued by the appeal board. If a request is made, the appeal shall be dismissed. An appeal so dismissed may be reinstated by the appeal board if the appellant files a written request to reinstate and shows that the request for withdrawal resulted from misinformation given by the workforce development department, unemployment insurance division, or for other good cause shown, as determined by the appeal board. A request for reinstatement shall be made within 60 days after the mailing of the decision dismissing the appeal or, in the event of fraud, within 60 days after discovery of the fraud.

3.1(16) *Late appeals.* The appeal board shall dismiss appeals which are not filed within 15 days from the date of the administrative law judge's decision, unless good cause for the delay has been shown.
[ARC 1358C, IAB 3/5/14, effective 4/9/14]

486—3.2(10A) Removals.

3.2(1) Within ten days following the decision of an administrative law judge, and in the absence of a filing of a notice of appeal to the appeal board by any of the parties from a decision of the administrative law judge, the appeal board on its own motion may order the parties to appear before the board for a hearing on the claim or any issue involved therein.

3.2(2) Such hearings shall be held only after notice, mailed to the parties ten days from the date of the removal of the case to the appeal board.

3.2(3) The proceedings on any claim before an administrative law judge ordered by the appeal board to be removed to itself shall be presented, heard, and decided by the appeal board in the manner prescribed for the hearing of appeals before an administrative law judge. The appeal board may review the evidence already contained in the record, giving the parties time to file written briefs and arguments, and issue a decision based upon that evidence.

486—3.3(10A) Appeal board decisions.

3.3(1) An appeal shall be decided based upon the evidence contained in the entire record before the administrative law judge, including the testimony of the hearing before the administrative law judge, together with any oral or written arguments presented to the board. Should the appeal board order additional evidence be admitted to the record, that evidence and briefs pertaining to that evidence shall be considered.

3.3(2) Following the review of an appeal or the conclusion of a hearing on appeal, the appeal board shall, within a reasonable time, render a written decision. The decision shall be signed by the members of the appeal board who reviewed the appeal, and a copy of said decision shall be filed in the offices of the employment appeal board. All decisions of the appeal board shall be filed in the offices of the unemployment insurance division of the workforce development department.

3.3(3) A quorum of two members of the appeal board must be present when any decision is made by the appeal board. Should there be only two members present and those two members cannot agree upon the decision, the case shall be issued as a split decision and the decision of the administrative law judge shall be affirmed by operation of law.

3.3(4) If a decision of the appeal board is not unanimous, the decision of the majority shall control. A majority shall be two members. The minority member may file a dissent from such decision setting forth the reasons why that member fails to agree with the majority. The appeal board, in its discretion, may omit the giving of any reasons for its decision on cases in which the decision of an administrative law judge is affirmed without any alteration or modification.

3.3(5) Copies of the decision shall be mailed to all parties to the appeal. The decision shall specify the parties' appeal rights.

3.3(6) The appeal board's decision shall become the final decision of the unemployment insurance division of the workforce development department 30 days after the decision is mailed to all interested parties of record. The date of mailing shall be affixed to the decision immediately below the signatures of the board members reviewing the decision. Any party may file an application for rehearing within 20 days of the date of the board's decision.

3.3(7) The appeal board's decision on an application for rehearing shall be final and without further review 30 days after the date the decision is mailed to the parties of record, unless within that 30 days a petition for judicial review is filed in the appropriate district court.

3.3(8) An application for rehearing shall be deemed denied unless the appeal board acts upon that application within 20 days of its filing date with the appeal board. A petition for judicial review may be filed within 30 days of the date of the appeal board's decision without the necessity of filing an application for rehearing.

3.3(9) After a decision of the appeal board has become final, the matter shall not be reopened, reconsidered, or reheard. The decision shall not be changed except to correct obvious clerical errors in the decision.

486—3.4(10A) Rehearing of the appeal board decision.

3.4(1) Solely on showing of good cause, the appeal board may, upon application by a party, reopen and review any prior decision, provided the application for rehearing is filed within 20 days from the date of the issuance of the prior decision.

3.4(2) The application shall be in writing, stating specific grounds therefor and the specific relief sought. Copies of such application shall be mailed, by the appeal board, to all parties of record not joining in the application.

3.4(3) In determining whether good cause exists for the appeal board to rehear a prior decision, the following factors shall be considered:

a. Whether the application presents newly discovered evidence or facts which are not cumulative, corroborative, or material to the issue decided and are not of sufficient weight to cause a reversal or change in the appeal board's decision.

b. Prior to and at the time of the appeal board's decision, such new information must not have been available through reasonable search by the applicant and must not have been previously considered in any prior appeals decision.

c. When the application presents evidence that benefits were allowed or denied, or the amount of benefits was fixed on the basis of nondisclosure or a misrepresentation of material fact.

3.4(4) If the application for rehearing is granted, the record shall be reopened and the matter may be remanded to an administrative law judge to allow the taking of further testimony and the establishment of further or new findings of fact. The matter then may be transferred to the appeal board for final action. The appeal board may admit documentary evidence or take additional testimony and then reissue a decision based upon the entire record.

3.4(5) The application for rehearing shall be deemed denied unless the appeal board takes action to grant or deny the application within 20 days from the date of the filing of the application.

3.4(6) If the application for rehearing is denied, all administrative remedies shall have been exhausted and the applicant may petition the appropriate district court for review pursuant to Iowa Code section 17A.19.

486—3.5(10A) Disqualification of appeal board members.

3.5(1) No appeal board member shall participate in any hearing in which the member has an interest which might affect the ultimate decision.

3.5(2) A challenge to the interest of an appeal board member may be made in writing at any time prior to the date the appeal board's decision becomes final.

3.5(3) Such challenge shall be filed with the chairperson of the appeal board and will be heard by the unchallenged members of the appeal board. A tie vote shall result in dismissing the challenge.

3.5(4) In the event one or more members of the appeal board are absent or otherwise disqualified, the case will be reviewed by the remaining members. A tie vote will result in affirming the administrative law judge's decision by operation of law.

486—3.6(10A) Public hearing. All hearings and meetings of the employment appeal board shall be open to the public except where the provisions of Iowa Code section 20.5 apply.

486—3.7(10A) Specific rules applicable to unemployment insurance claims.

3.7(1) Investigations.

a. Whenever, in the course of an appeal, an investigation, inquiry, payroll audit or other examination appears necessary for a proper determination of a case, the appeal board may request such investigation, inquiry, payroll audit, or other examination through the appropriate department.

b. Hearings on the appeal shall be continued or adjourned pending the completion of such investigation, inquiry, or examination.

c. The right to be informed of, to cross-examine, to inspect, and to rebut the results of the investigation, inquiry, or examination shall be preserved to all parties to the appeal.

3.7(2) Information to be furnished.

a. Information from the records of the workforce development department, unemployment insurance division, shall be furnished to a party or the party's representative to the extent necessary for the proper presentation of an appeal upon application.

b. Applications for information from records of the division shall state the nature of the information desired.

3.7(3) *Payment of benefits.* If the appeal board's decision allows benefits by reversing or modifying an administrative law judge's decision, benefits shall be promptly paid. The filing of an application for a rehearing or for judicial review shall not stay the effect of the appeal board's decision.

3.7(4) *Redeterminations.*

a. If a claim has been decided under the gross misconduct section of the Iowa Code, a redetermination may be made anytime within five years of the effective date of the claim, even though a final decision has been made by the appeal board.

b. The redetermination may be appealed to the appeal board.

c. If the redetermination results in a reversal of an allowance of benefits and holds that the claimant was discharged for an act of gross misconduct, all benefits paid to the claimant prior to the redetermination shall be assessed as an overpayment and shall be collectible in the manner provided in Iowa Code section 96.14(3) for the collection of past due contributions.

d. If the redetermination results in an allowance of benefits by reversing a previously imposed disqualification for gross misconduct, the claimant shall be paid benefits for all weeks for which the claimant has submitted a continued claim report form.

e. A request for a redetermination may be made only by an interested party to the original case which resulted in the determination, decision, or final decision of the appeal board under the gross misconduct section.

3.7(5) *Workforce development department employees as witnesses.*

a. Those employees of the workforce development department directly involved in handling the claim which resulted in the appeal may be called to testify by the appeal board.

b. The employee having direct knowledge of the local job market may be called as a witness by the appeal board to testify concerning the wages, hours and other conditions of employment relating to the particular job and job market involved in the appeal.

c. The employer to whom an applicant is referred for work or who offers work or recall to work of an individual claiming unemployment insurance benefits shall be named in the appeal and shall receive all applicable notices and decisions.

486—3.8(10A) Retention of records. Records of proceedings in contested cases, appealed to the employment appeal board, shall be retained:

1. Sixty days following the final date for an appeal to the district court.
2. Sixty days following the entry of a final order by the district court.
3. Sixty days following the filing of the decision of the court of appeals.
4. Sixty days following the filing of an opinion by the supreme court.

Other records of the employment appeal board may be retained as determined by the board.

Records of cases involving federal appeals or those cases which are governed by federal law or rules shall be retained as determined by federal regulation pertaining to the case.

These rules are intended to implement Iowa Code section 10A.601.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/16/89, Notice 11/16/88—published 3/8/89, effective 4/12/89]

[Filed 12/10/93, Notice 9/29/93—published 1/5/94, effective 2/9/94]

[Filed 6/29/98, Notice 4/8/98—published 7/29/98, effective 9/2/98]

[Filed 4/25/03, Notice 3/19/03—published 5/14/03, effective 6/18/03]

[Filed ARC 1358C (Notice ARC 1269C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

TRANSPORTATION DEPARTMENT[761]

Rules transferred from agency number [820] to [761] to conform with the reorganization numbering scheme in general IAC Supp. 6/3/87.

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AERONAUTICS
CHAPTER 700
AERONAUTICS ADMINISTRATION

761—700.1(328) Definitions. The definitions in Iowa Code section 328.1 and the following definitions shall apply to 761—Chapters 700 to 799.

“*FAA*” means the Federal Aviation Administration.

“*Sponsor*” means the person or governmental subdivision that has the authority for improving, maintaining and operating an aviation facility.

This rule is intended to implement Iowa Code section 328.1.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—700.2(17A) Information and forms. Program information, forms and application instructions are available on the department’s Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 17A.3.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—700.3(17A) Hearing and appeal process. A person who has been aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A.

[Filed 9/2/87, Notice 7/15/87—published 9/23/87, effective 10/28/87]

[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]

[Filed emergency 7/1/92—published 7/22/92, effective 7/27/92]

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed ARC 1351C (Notice ARC 1270C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 710
AIRPORT IMPROVEMENT PROGRAM
[Prior to 6/3/87, Transportation Department [820]—(04,B) Ch 1]

761—710.1(328) Purpose. These rules establish the procedures for a governmental subdivision to apply for state or federal funds for the improvement of airports and air navigation facilities.

This rule is intended to implement Iowa Code sections 328.12 and 330.13.

761—710.2(328) Definitions. The definitions in Iowa Code sections 328.1, 330.1, and 330A.2 apply to this chapter of rules.

This rule is intended to implement Iowa Code sections 328.1, 330.1, and 330A.2.

761—710.3(17A) Information and forms. Program information, forms and application instructions are available on the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 17A.3.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—710.4(330) Federal airport improvement funds.

710.4(1) Applicant eligibility. A governmental subdivision owning a public airport that is listed in the Federal Aviation Administration's (FAA) National Plan of Integrated Airport Systems (NPIAS) is eligible to apply for federal funds. The NPIAS published report is available at the FAA Web site: www.faa.gov/airports. An airport that receives federal primary commercial service entitlement funds is not required to submit preapplications.

710.4(2) Project eligibility. Projects must meet the FAA eligibility guidelines for federal airport improvement projects. Federal airport improvement program guidelines are available at the FAA Web site: www.faa.gov/airports.

710.4(3) Preapplication.

a. The department shall distribute preapplication instructions and forms annually to each eligible applicant.

b. The completed preapplication for federal airport improvement funds shall be submitted to the department according to the method and time frame specified in the annual application instructions.

710.4(4) Project prioritization.

a. The department shall review each completed preapplication for project eligibility and consistency with the state aviation system plan. The department shall review and prioritize projects based on the goals and objectives in the state aviation system plan.

b. The commission is responsible for approving the prioritization of the preapplications.

c. The department shall submit the preapplications with priorities identified to the FAA, and the FAA will contact the applicant directly concerning all subsequent action on the preapplication.

This rule is intended to implement Iowa Code section 330.13.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—710.5(328) State airport improvement funds.

710.5(1) Applicant eligibility. A governmental subdivision owning or establishing a public airport is eligible to apply to the department for state airport improvement funds.

710.5(2) Project eligibility and funding.

a. An airport improvement project must benefit and be accessible to the public.

b. Airport projects may include, but are not limited to: runway, taxiway, and apron surfaces; lighting and navigational aids; obstruction removal; grading, drainage, and surfacing airfield surfaces and protection areas; signage, security access control and lighting; planning; and other airport enhancements.

A project that involves airfield infrastructure shall comply with the airport master plan or airport layout plan as adopted by the governmental subdivision.

c. The department establishes the maximum percentage of state share of eligible projects. The department may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.

710.5(3) *Application for funding.*

a. The department shall make available the application instructions and forms to each publicly owned airport in Iowa. A complete application will include all materials identified in the annual application instructions.

b. Project applications shall be submitted to the department by the due date specified in the instructions.

c. Immediate safety enhancement project applications may be submitted at any time during the year to the department according to instructions that are part of the application form.

d. The department shall make available applications for special projects to all eligible airports. Airport sponsors shall submit applications for special projects to the department as specified in the application instructions.

710.5(4) *Review and approval.* The department shall review each completed application and evaluate the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided in the application; ability to enhance aeronautical activity for the airport and system; local participation; and multijurisdictional support of the airport. The department shall recommend projects to the transportation commission for approval. The commission is responsible for approving the projects to be funded.

710.5(5) *Project administration.*

a. After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor.

b. The agreement shall specify the amount of state funds, the contract period, and the responsibilities for project planning, development, and the payment process.

c. The department may inspect the improvement for compliance with the agreement and may audit all project costs incurred.

710.5(6) *Contract payments.*

a. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

b. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.

This rule is intended to implement Iowa Code chapter 328.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

[Filed 7/1/75]

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]

[Filed emergency 7/1/92—published 7/22/92, effective 7/27/92]

[Filed 3/10/94, Notice 1/5/94—published 3/30/94, effective 5/4/94]

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed 12/14/05, Notice 11/9/05—published 1/4/06, effective 2/8/06]

[Filed ARC 1351C (Notice ARC 1270C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 715
AIR SERVICE DEVELOPMENT PROGRAM

761—715.1(328) Purpose. The purpose of the air service development program is to help commercial service airports sustain and enhance available air service options for the traveling public.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—715.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) shall apply to this chapter of rules.

761—715.3(328) Eligibility and funding.

715.3(1) Participation in the air service development program shall be limited to airports currently receiving scheduled air service and designated as commercial service airports in the Iowa aviation system plan.

715.3(2) The transportation commission shall establish annually:

a. The maximum amount of funds to be allocated to the air service development program for the program year.

b. The amount to be allocated to each airport for sustainment project activities.

c. The amount of funds that will be added to the enhancement fund pool.

715.3(3) Program information, instructions and application forms may be obtained from the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1689. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

715.3(4) Allocated program funds shall be available to each commercial service airport for the time period specified in the application instructions and in the agreement.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—715.4(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

715.4(1) Activities to sustain or improve air service, which include, but are not limited to, marketing, advocacy, educational efforts and leveraging local and federal funds in collection of data, studies or other efforts.

715.4(2) Service enhancement activities, which include, but are not limited to, market entry support, financial incentives and data analysis studies to help airports enhance service on new routes, provide for entry of a new carrier, or achieve an increase in seat capacity on existing routes.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—715.5(328) Ineligible project activities. Rescinded ARC 1351C, IAB 3/5/14, effective 4/9/14.

761—715.6(328) Project selection criteria. Sustainment projects at each commercial service airport that meet the eligibility criteria may be funded up to the limit of each airport's allocation. Enhancement project requests that meet program requirements may be funded if funding is available in the enhancement fund pool.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—715.7(328) Application. Completed applications shall be submitted to the department and include the information requested in the annual application instructions.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—715.8(328) Project administration.

715.8(1) Agreement. After a project application has been approved, the department shall enter into a project agreement with the airport sponsor that specifies the responsibilities of the sponsor. The

agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.

715.8(2) Project payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code section 328.12.

[Filed emergency 9/25/87—published 10/21/87, effective 9/25/87]

[Filed 12/3/87, Notice 10/21/87—published 12/30/87, effective 2/3/88]

[Filed emergency 5/25/88—published 6/15/88, effective 7/1/88]

[Filed 10/19/89, Notice 9/6/89—published 11/15/89, effective 12/20/89]

[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]

[Filed 11/19/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed ARC 1351C (Notice ARC 1270C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 716
COMMERCIAL SERVICE VERTICAL INFRASTRUCTURE PROGRAM

761—716.1(328) Purpose. The purpose of the commercial air service vertical infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's commercial air service airports. The source of funds is an appropriation from the Iowa general assembly.

761—716.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

“Vertical infrastructure” means the same as defined in Iowa Code section 8.57B.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—716.3(328) Information and forms. Program information, instructions, and forms are available on the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—716.4(328) Eligible airports. Eligible airports are those Iowa airports currently receiving scheduled commercial air service.

761—716.5(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

716.5(1) Terminal building construction or renovation including associated design, land acquisition, grading and foundation work.

716.5(2) Hangar construction or renovation including associated design, land acquisition, grading and foundation work.

716.5(3) Maintenance facility building construction or renovation including, but not limited to, associated design, land acquisition, grading and foundation work.

761—716.6(328) Ineligible project activities. Rescinded IAB 1/7/04, effective 2/11/04.

761—716.7(328) Project application and review.

716.7(1) Each airport shall submit an application with the project or projects it intends to accomplish with the allocated funding. The completed application shall include the information and documents identified in the application instructions. The complete application shall be submitted to the department according to the annual application instructions.

716.7(2) The department shall review projects for eligibility and recommend projects and funding levels to the transportation commission. Funding criteria are included in application instructions provided to airport sponsors.

716.7(3) The transportation commission is responsible for approving the projects to be funded.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—716.8(328) Project administration.

716.8(1) Agreement. After the projects are approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor. The agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.

716.8(2) Payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code sections 8.57B and 328.12.

[Filed 10/28/98, Notice 8/26/98—published 11/18/98, effective 12/23/98]

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed ARC 1351C (Notice ARC 1270C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 717
GENERAL AVIATION VERTICAL INFRASTRUCTURE PROGRAM

761—717.1(328) Purpose. The purpose of the general aviation vertical infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's general aviation airports.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

“*Vertical infrastructure*” means the same as defined in Iowa Code section 8.57B.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.3(328) Information and forms. Program information, instructions, and application forms may be obtained from the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.4(328) Applicant eligibility. An airport sponsor, as defined in rule 761—700.1(328), of a publicly owned general aviation airport is eligible to apply for funding.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.5(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

717.5(1) Hangar renovation or construction including associated design, land acquisition, grading and foundation work.

717.5(2) Fuel facilities including associated design, land acquisition, grading and foundation work.

717.5(3) Terminal building renovation or construction including associated design, land acquisition, grading and foundation work.

717.5(4) Relocating an existing hangar, terminal building or fuel facility to correct violations of federal safety or design standards. Work shall include all associated design, land acquisition, grading and foundation work.

761—717.6(328) Ineligible project activities. Rescinded IAB 11/14/01, effective 12/19/01.

761—717.7(328) Funding. The department establishes the maximum percentage of state share of eligible projects. The department may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.8(328) Project priorities. The department shall consider the following in project selection: airport role and objectives defined in the state aviation system plan; demonstration of increased aeronautical activity; justification for the project; local participation; and multijurisdictional support of the airport.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.9(328) Project applications.

717.9(1) The department shall make available application instructions and forms to each publicly owned airport in Iowa. Project applications shall be submitted to the department as directed in the annual application instructions.

717.9(2) Each application shall include the information and forms identified in the annual application instructions.
[ARC 1351C, IAB 3/5/14, effective 4/9/14]

761—717.10(328) Review and approval. Department staff shall review project applications and submit recommendations to the transportation commission. The commission is responsible for approving the projects to be funded.

761—717.11(328) Project administration.

717.11(1) Agreement. After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor. The agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.

717.11(2) Payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.

[ARC 1351C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code sections 8.57B and 328.12.

[Filed 1/20/00, Notice 12/15/99—published 2/9/00, effective 3/15/00]

[Filed 10/24/01, Notice 9/19/01—published 11/14/01, effective 12/19/01]

[Filed 12/14/05, Notice 11/9/05—published 1/4/06, effective 2/8/06]

[Filed ARC 1351C (Notice ARC 1270C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 2
VOTER REGISTRATION FORMS, ACCEPTABILITY,
REGISTRATION DATES, AND EFFECTIVE DATES
[Prior to 3/21/90, see Voter Registration Commission[845], Ch 2]

821—2.1(48A) Voter registration forms.

2.1(1) Content and completion.

a. In addition to the spaces required by Iowa Code section 48A.11, every voter registration form shall include room for the county commissioner to make notations indicating such items as the date the form was received, the precinct and school district of the registrant, any other special district or note deemed necessary or appropriate by the commissioner, and the date the registration is effective. The notations may be on the reverse of the form.

b. The spaces on the paper voter registration form required by Iowa Code section 48A.11 and subrule 2.1(1) may be completed electronically. Voter registration forms completed electronically must be printed and, in the event adhesive labels are used, such labels must be firmly affixed to the form. The form must also be signed and dated by the voter.

2.1(2) Definitions.

“Agency application” means an application received at a voter registration agency pursuant to Iowa Code section 48A.19.

“Application” means a request to register to vote from a person who is not registered to vote in the county where the voter registration form is submitted. An application shall be made on a voter registration form prescribed by the voter registration commission.

“By-mail application” means an application received through the mail from an individual applicant. *“By-mail application”* also includes voter registration applications received from organizations that solicit voter registrations. *“By-mail application”* does not include registration forms sent through the mail by voter registration agencies.

“In-person application” means an application received in person from the applicant either by the registrar, the registrar’s designee, the commissioner, the commissioner’s designee or a precinct election official.

“New voter registration application” means a voter registration application received from an individual who is not already registered to vote in the county.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.2(48A) Agency code. In addition to the spaces and statements required to be included on registration forms by Iowa Code section 48A.11 and rule 821—2.1(48A), registration forms used by voter registration agencies shall contain a code, to be devised by the registrar, indicating the type of agency.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.3(48A) Federal mail-in application. Rules 821—2.1(48A) and 821—2.2(48A) do not apply to the mail voter registration form prescribed by the federal election commission, which shall be accepted in accordance with Iowa Code section 48A.12 and shall not be used by voter registration agencies.

821—2.4(48A) Paperless (electronic) registration forms. Any voter registration agency and the office of driver services, department of transportation, may devise a system of collecting registration applications without using paper forms, in accordance with the following restrictions:

2.4(1) All information required to be disclosed on a voter registration form shall be collected by the agency and captured electronically. The applicant shall also be asked to disclose the optional information solicited by the form if that information is not captured as a part of the agency’s own record-making process.

2.4(2) The applicant shall be shown a list of the eligibility requirements for registering to vote and the penalties for falsely registering, printed in large, easy-to-read type, and shall be advised to read them.

2.4(3) The application to register to vote and the signature of the applicant shall be recorded in digitized form in the agency's computer system and shall be kept permanently by the agency. The system shall ensure that neither the application form nor the signature, once captured, can be edited.

2.4(4) The agency shall develop procedures so that the digitized signature can be retrieved and reproduced on paper. Within three working days of receipt of an order from a state or federal court, the agency shall provide a reproduction of the requested application and signature.

2.4(5) The agency shall transmit electronic registration records to the registrar in accordance with 821—Chapter 8.

821—2.5(48A) Acquisition of registration forms. To ensure that forms used by the various voter registration agencies contain no distinguishing characteristics that could be used to identify the agency from which the form came, all agency forms shall be ordered through the state registrar of voters. The registrar shall negotiate a contract for the procurement of the forms in accordance with all procurement laws and rules.

821—2.6(48A) Production of forms. Any person or organization, except voter registration agencies, may cause the printing and production of voter registration applications. Applications so produced shall be identical in size, shape, weight and similar in color of paper, type size, and color of ink to those available from the registrar, except that the independently produced applications may not contain an agency type code, may be preaddressed to a particular county commissioner on the reverse of the form, and may contain postage. This rule shall not apply to voter registration forms printed in newspapers or telephone books.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.7(48A) Availability of forms. Voter registration applications shall be available for purchase, at the cost of production, from the state registrar of voters. Application forms for an individual's personal use shall be available free of charge at the office of the registrar, all voter registration agencies, and the office of driver services, department of transportation.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.8(48A) Incomplete applications.

2.8(1) No commissioner shall refuse to register or accept an application from an applicant unable to specify the correct ward, precinct, or school district for the applicant's address. The commissioner shall make a determination of the correct political subdivisions from maps, legal descriptions, and other means at the commissioner's disposal.

2.8(2) The notice mailed to applicants who submit incomplete voter registration applications shall instruct the applicant that the applicant may provide the required information in writing by appearing in person at the commissioner's office to complete a new application or by mailing a new and complete application. If the incomplete registration application is received during the period in which registration is closed pursuant to Iowa Code section 48A.9 and by 5 p.m. on the Saturday before the election for general and primary elections or by 5 p.m. on the Friday before the election for all other elections, the commissioner shall send a notice advising the applicant of election day and in-person absentee registration procedures under Iowa Code section 48A.7A.

2.8(3) If the application does not include the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number, and the applicant has not indicated that the applicant does not have any of these numbers, the notice described in subrule 2.8(2) shall also include the following statement:

“Your voter registration application cannot be accepted because it does not include an Iowa driver's license number, an Iowa nonoperator's identification number or the last four numbers of your social security number. You must submit a new voter registration form before you can be registered to vote in this county.

“If you have an Iowa driver’s license, you must write that number on your voter registration form. If you do not have an Iowa driver’s license, use the number from your Iowa nonoperator's identification card. If you do not have an identification card issued by the state of Iowa, write the last four numbers of your social security number on the form. If you don’t have any of these identification numbers, please check the box next to ‘NONE’ on the form. Please note it is a Class “D” felony to provide false information on a voter registration application.”

2.8(4) If the applicant reports that the applicant has not been issued an Iowa driver’s license, an Iowa department of transportation-issued nonoperator’s identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and code the registration status as “pending.”

2.8(5) The commissioner shall keep an incomplete application for voter registration for 22 months after the date of the next general election after the application was received.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.9(48A) Optional data not required. No commissioner shall refuse to register or accept an application from an applicant who fails or declines to reveal the applicant’s telephone number or political party affiliation.

821—2.10(48A) Alternate (nonmailable) registration forms. An alternate registration form is authorized for the use of voter registration agencies and nongovernmental organizations engaging in registration programs and registration drives. The form shall contain spaces for all of the required and optional information solicited by the standard form, a list of the qualifications to register to vote, a statement to be signed by the applicant that the applicant is eligible to register to vote, and a statement of the penalty for submission of a false voter registration form. The face of the form shall contain spaces for all the personal information asked of the applicant, along with the attestation and warning. The reverse of the form may contain the list of qualifications, and may contain space for the county commissioner’s notations. The form may be printed as a detachable part of a larger piece or may be printed by itself. Because registration forms are frequently kept for many years, registration forms shall be printed on paper at least as thick as 20-pound xerographic paper.

The intent of this rule is to make available a mechanism for individuals, groups and organizations to conduct registration drives without requiring individuals, groups and organizations to purchase registration forms. To that end, the state registrar shall make available, without charge, a limited quantity of forms as determined by the voter registration commission, and PDF versions of a form meeting the requirements of this rule.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.11(48A) Registration forms in languages other than English. Rescinded IAB 7/1/09, effective 7/1/09.

821—2.12(48A) County registration date. For the purposes of determining timeliness of an application to register to vote, the county registration date shall be determined as follows:

2.12(1) The county registration date for an in-person applicant at least 18 years of age is the date the registration application is received by the commissioner or the commissioner’s designee. However, when preregistration is closed in the applicant’s precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(2) The county registration date for a by-mail applicant at least 18 years of age is the date the registration application is received by the commissioner, unless the application is postmarked on or before the worry-free postmark date established pursuant to Iowa Code section 48A.9, subsection 3. However, when preregistration is closed in the applicant’s precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(3) The county registration date for an application received from a source other than in person or by mail is the date the application is received by the commissioner or submitted to the office of driver services, department of transportation, or to a voter registration agency pursuant to Iowa Code section 48A.19, whichever is earlier.

2.12(4) The county registration date for applicants aged 17 ½ to 18 shall be the date of the applicant's eighteenth birthday. However, when preregistration is closed in the applicant's precinct on the applicant's eighteenth birthday, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.13(48A) Effective date of registration. Rescinded IAB 7/1/09, effective 7/1/09.

821—2.14(48A) Voter registration status codes. Voter registration records shall be coded to show the status of the record.

2.14(1) Active. The registration is in good standing. No action is required on the part of either the registrant or the commissioner.

2.14(2) Inactive. If either an acknowledgment mailed to the registrant pursuant to Iowa Code section 48A.26 as amended by 2009 Iowa Acts, House File 475, section 17, a notice mailed to the registrant pursuant to Iowa Code section 48A.27 as amended by 2009 Iowa Acts, House File 475, section 18, a notice mailed to the registrant pursuant to Iowa Code section 48A.28 or an absentee ballot mailed to the registrant pursuant to Iowa Code section 53.8 is returned to the commissioner by the United States Postal Service as undeliverable, the registrant's status shall be changed to "inactive" status. In addition, a voter registration record shall be made "inactive" pursuant to Iowa Code section 48A.27, subsection 4, paragraph "c," as amended by 2009 Iowa Acts, House File 475, section 18, during the annual NCOA process. Inactive registrations will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27 as amended by 2009 Iowa Acts, House File 475, section 17, 48A.28, 48A.29 or 48A.30, requests an absentee ballot, votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person at the polling place, pursuant to Iowa Code section 49.77(3) as amended by 2009 Iowa Acts, House File 475, section 33, or shall restore their voter registration to "active" status pursuant to 721—21.301(53) when voting by absentee ballot.

2.14(3) Pending.

a. No DL or SSN Provided. If an applicant indicates that the applicant does not have an Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the applicant shall be assigned a status of "pending" with reason "No DL or SSN Provided."

b. DL or SSN Not Verified. If the applicant provides an Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number and that information cannot be verified pursuant to 821—2.15(48A), the applicant shall be assigned a status of "pending" with reason "DL or SSN Not Verified."

c. An applicant assigned a status of "pending" shall not be activated until the applicant provides identification pursuant to 721—21.3(49,48A).

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.15(48A) Verification of voter registration information. All new voter registration applications shall be verified. The registrar may arrange with the department of transportation for county commissioners of elections to verify voter registration records without submitting the registration information to the registrar.

2.15(1) When the application is received, the commissioner shall compare the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number of each mail application with the records of the department of transportation.

2.15(2) All of the following information on the application must match an existing record:

a. All digits and numerals in the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number.

b. Name.

c. Date of birth, including the month, day and year.

2.15(3) If all three required elements do not match, the applicant shall be assigned a status of "pending" with reason "DL or SSN Not Verified." The applicant shall be notified that the applicant's voter registration is in pending status and the applicant will be required to show identification pursuant to 721—21.3(49,48A) before voting in the county. The notice shall include the following statement:

"Your voter registration application is pending because the information you provided on your application could not be verified. Your name, date of birth and identification number were compared to the Iowa driver's license records and your identification number cannot be verified.

"Before voting for the first time in this county, you will be required to show identification. You may submit identification either by showing your identification in person when you vote or by mailing a photocopy of your identification to the county auditor's office."

2.15(4) If the application is verified, the registration record shall be made "active." The registrar or commissioner shall keep records showing whether the information in the application was verified and the date of the verification. If the application cannot be verified, the record shall show what information on the application did not match an existing record. The verification record shall be kept for the period of time required in Iowa Code section 48A.32.

[ARC 7883B, IAB 7/1/09, effective 7/1/09]

821—2.16(47,48A) Form of official Iowa voter registration application. The official Iowa voter registration application pursuant to Iowa Code section 48A.11 shall be the State of Iowa Official Voter Registration Form Revised 4/9/2014.

[ARC 0807C, IAB 6/26/13, effective 8/1/13; ARC 1361C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code chapter 48A.

[Filed emergency 6/2/76—published 6/28/76, effective 6/2/76]

[Filed 7/24/78, Notice 6/14/78—published 8/9/78, effective 9/13/78]

[Filed 2/20/80, Notice 12/26/79—published 3/5/80, effective 4/9/80]

[Filed emergency after Notice 7/27/82, Notice 6/9/82—published 8/18/82, effective 7/27/82]

[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]

[Filed emergency after Notice 8/22/84, Notice 7/18/84—published 9/12/84, effective 8/22/84]

[Filed 1/24/86, Notice 12/4/85—published 2/12/86, effective 3/19/86]

[Filed emergency 9/4/86—published 9/24/86, effective 9/4/86]

[Filed 8/30/89, Notice 4/5/89—published 9/20/89, effective 10/25/89]

[Filed 3/1/90, Notice 9/6/89—published 3/21/90, effective 4/25/90]

[Filed 10/12/90, Notice 9/19/90—published 10/31/90, effective 12/5/90]

[Filed 11/4/94, Notice 9/28/94—published 11/23/94, effective 1/5/95]

[Filed emergency 10/6/95—published 10/25/95, effective 10/6/95]

[Filed 1/29/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]

[Filed 7/16/04, Notice 6/9/04—published 8/4/04, effective 9/10/04]

[Filed Emergency ARC 7883B, IAB 7/1/09, effective 7/1/09]

[Filed Without Notice ARC 0807C, IAB 6/26/13, effective 8/1/13]

[Filed ARC 1361C (Notice ARC 1281C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

CHAPTER 24
CLAIMS AND BENEFITS

[Prior to 11/17/75, Ch 3]

[Prior to 9/24/86, Employment Security[370]]

[The filed emergency amendments were rescinded and the amendments to
Chapter 4 were adopted following Notice, 12/31/86 IAB, effective 2/4/87]

[Prior to 3/12/97, Job Service Division [345] Ch 4]

871—24.1(96) Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

24.1(1) Additional claim. An application for determination of eligibility filed on an established claim which follows a period of employment.

24.1(2) Administrative office (state). Same as central office.

24.1(3) Agent state. The state in which a worker claims benefits against another (liable) state through the facilities of the state employment security agency. See also liable state.

24.1(4) Reserved.

24.1(5) Annual benefit amount. See maximum annual benefits under benefits.

24.1(6) Appeals. See rule 871—26.1(96).

a. Administrative appeal. A request for a review by an appeals authority of a state employment security agency's determination on a claim for benefits, on a status report, or on an employer's contribution rate, or a request for a review by a higher appeals authority of a decision made by a lower appeals authority.

b. Employment appeal board of the department of inspections and appeals. The employment appeal board of the department of inspections and appeals is established to hear and decide disputed claims. The employment appeal board of the department of inspections and appeals will consist of three members appointed by the governor with the approval of two-thirds of the members of the senate. One member will represent the general public, one member will represent employers, and one member will represent employees.

This subrule is intended to implement Iowa Code section 96.6(4).

24.1(7) Applicant. Any individual applying for work at a workforce development center.

24.1(8) and 24.1(9) Reserved.

24.1(10) Average weekly wages. See wages.

24.1(11) Base period. The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or

b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

24.1(12) Base period employer and chargeable employer.

a. Base period employer. An employer who paid wages for employment to a claimant during the claimant's base period or an employer who is responsible for an individual's wages pursuant to Iowa Code section 96.3, subsection 5, pertaining to workers' compensation benefits.

b. Chargeable employer. An employer who had base period wages accruing to the employer's account due to an employer liability determination.

24.1(13) Benefit amount.

a. Maximum weekly benefit amount. The highest weekly benefit amount provided in a state employment security law.

b. Minimum weekly benefit amount. The lowest weekly benefit amount for a week of total unemployment provided in a state employment security law.

c. Weekly benefit amount. The full amount of benefits a claimant is entitled to receive for a week of total unemployment.

24.1(14) Benefit decision. The decision reached by a lower or higher appeals authority with respect to an appealed claim. See also benefit determination, under determination.

24.1(15) Benefit determination. See determination.

24.1(16) Benefit eligibility conditions. Statutory requirements which must be satisfied by an individual with respect to each week of unemployment before benefits can be received.

24.1(17) Benefit formula. The combination of mathematical factors specified in the state employment security law as the basis for computing an individual's weekly benefit amount and maximum benefit amount.

a. Annual wage formula. A benefit formula which uses the claimant's total wages in insured work for a one-year period for computing the claimant's maximum benefit amount.

b. High quarter formula. A benefit formula which uses, for determining a claimant's weekly benefit amount, the quarter of the base period in which the claimant's wages in insured work were highest.

24.1(18) Benefits. Money payments to an individual with respect to unemployment.

a. Regular benefits. Benefits payable to an individual under this or any other state law (including benefits payable to federal civilian employees and ex-servicemembers pursuant to 5 U.S.C., chapter 85) other than extended benefits.

b. Extended benefits. Benefits payable to an individual (including benefits payable to federal civilian employees pursuant to 5 U.S.C., chapter 85) for weeks of unemployment which begin in an extended benefit period, which is a period when extended benefits are paid in this state.

24.1(19) Benefit wages. See wages.

24.1(20) Benefit year. That period to which the limitation of maximum duration of benefits is applicable, a year or approximately a year.

24.1(21) Benefit year, individual. The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is usually the Sunday of the current week in which the claimant first files a valid claim unless the claim is backdated as allowed under subrule 24.2(1), paragraph "h."

24.1(22) Calendar week. See week.

24.1(23) Central office. The state administrative office of the division of unemployment insurance services of the department of workforce development.

24.1(24) Reserved.

24.1(25) Claim. A request for benefit payment; also used to mean any notice filed by an individual to establish insured status or a notice filed by an individual to inform the administrative agency of the individual's unemployment.

a. A claim may be filed under any one or more of the following programs:

(1) The state program of unemployment insurance (UI),

(2) The federal program of unemployment compensation for federal employees (UCFE) established by Title V of the United States Code, and

(3) The federal program of unemployment compensation for ex-military personnel (UCX) established by Title V of the United States Code.

b. Unless otherwise specified, the term claim as used in the following definitions is applicable equally to each of the three programs.

(1) *Additional UI, UCFE, or UCX claim.* A notice filed at the beginning of a second or subsequent series of claims within a benefit year, when a break in job attachment has occurred since the last claim was filed, concerning which state procedures require that separation information be obtained.

(2) *Additional claim.* An application for determination of eligibility filed on an established claim which follows a period of employment.

(3) *Additional interstate claim.* A claim filed by an interstate claimant within the benefit year of a liable state in which insured status has already been established, after a break in the continuity of filing continued interstate claims, or to establish a new series of claims against that liable state from a new agent state.

(4) *Appealed claim.* See appeal, administrative.

(5) *Combined wage claim.* A claim filed under the interstate wage combining plans. See interstate agreement.

(6) *Compensable claim.* A request for benefit payment which certifies the completion of a week of total or partial unemployment to satisfy a claim benefit for a compensable week.

(7) *Contested claim.* A claim which has been protested by an employer, the department or an interested party regarding the claimant's right to benefits.

(8) *Continued claim.* A continued claim is a request for benefit payment. A continued claim is a compensable claim. It is an electronic, oral or written application which certifies to the completion of a week of total unemployment or partial employment to claim benefits for a compensable week.

(9) *Initial claim.* An application for a determination of eligibility for benefits which determination sets forth the weekly benefit amount and duration of benefits for a benefit year.

(10) *Initial interstate claim.* A new or an additional interstate claim.

(11) *Interstate claim.* A claim filed in one state (agent state) against another state (liable state).

(12) *Intrastate claim.* A claim filed in the state of residence against wages earned in that state or by an interstate commuter.

(13) *Mail claim.* A claim filed by mail.

(14) *New claim.* An application for the establishment of a benefit year.

(15) *New interstate claim.* The first interstate claim filed by a claimant against a liable state which serves as a request for determination of insured status.

(16) *New intrastate extended benefits claim.* The first intrastate claim filed for extended benefits in a new extended benefits period by a claimant in state having extended benefits provisions in its law. Each time such provisions become effective it is considered a new extended benefit period. Such first claims will include those which become effective, without any break in the benefit series, for the week following the week in which regular benefits are exhausted or are terminated by the end of the benefit year.

(17) *New UI, UCFE, or UCX claim.* A request for determination of insured status for purposes of establishing a new benefit year.

(18) *Reopened claim.* The first continued claim in a second or subsequent series of claims in a benefit year when no additional claim is reportable. An application for determination of eligibility for benefits and which certifies to the beginning date of a period of unemployment which falls within a benefit year previously established for which a continued claim or claims may be filed and which follows a break in a claim series previously established, due to illness, disqualification, unavailability, or failure to report for any reason other than reemployment.

(19) *Subsequent benefit year claim.* A new claim with an effective date for a subsequent benefit year which immediately follows the last week of the individual's previous benefit year. The individual is notified by mail of the transition between the benefit years and is requested to provide the department with the information which has changed from the previous benefit year's claim for benefits.

(20) *Transitional claim.* A new claim dated as of any date in the seven-day period immediately following a week benefits were claimed.

(21) *Valid UI, UCFE or UCX claim.* A new claim on which a determination has been made that the individual has met the wage or employment requirements (and, under some laws, other eligibility conditions) to establish a benefit year.

(22) *Voice response continued claim.* Rescinded IAB 8/6/03, effective 9/10/03.

24.1(26) Claimant.

a. An individual who has filed a request for determination of insured status or a new claim, or,

b. An individual who has filed an initial claim unless the claim is found to be invalid or the benefit year has expired.

c. Courtesy claimant. See transient claimant.

d. Transient claimant. A transient claimant is defined as one who is moving from place to place and who indicates to the agent-state local office that the stay will be only temporarily in the area served by that office. Unlike a visiting claimant, a transient claimant does not have the intrastate claim forms and instructions from the regular reporting local office. Refer to subrule 24.23(36).

e. Visiting claimant. A visiting claimant is one who has received permission from the regular reporting office to report temporarily to a local office of another state and who has been furnished intrastate claim forms on which to file claims.

24.1(27) Reserved.

24.1(28) *Claim series.* A series of claims filed for continuous weeks of unemployment or for a period of unemployment during which the lapse in compensability or in reporting is deemed by the state insufficient to interrupt the series.

24.1(29) *Compensable claim.* See claim.

24.1(30) *Compensable week.* See week.

24.1(31) *Compensation.* Same as benefits.

24.1(32) *Contested claim.* See claim.

24.1(33) *Continued claim.* See claim.

24.1(34) *Covered employment.* Same as insured work.

24.1(35) *Covered worker.* An individual who has earned wages in insured work.

24.1(36) *Day.* The period of time between any midnight and the midnight following.

24.1(37) *Department.* The chief executive officer of the department of workforce development is the director who shall be appointed by the governor with the approval of two-thirds of the members of the senate. It shall be the duty of the director to administer Iowa Code chapter 96.

24.1(38) *Determination.*

a. *Benefit determination.* A decision with respect to a request for determination of insured status, a notice of unemployment, or a claim for benefits.

b. *Coverage determination.* A determination as to whether an employing unit is a subject employer and whether service performed for it constitutes employment as defined under a state employment security law. See status determination.

c. *Determination of insured status.* A determination as to whether an individual meets the employment requirements necessary for the receipt of benefits; and, if so, such individual's weekly benefit amount and maximum benefit amount.

d. *Initial determination.* The first determination with respect to a claim or a request for determination of insured status.

e. *Monetary determination.* Same as determination of insured status.

f. *Nonmonetary determination.* A determination as to whether a claimant is barred from receiving benefits for reasons other than those affecting the claimant's insured status.

g. *Reconsidered determination.* Same as redetermination.

h. *Redetermination.* A determination made with respect to a claimant after reconsideration by the initial determining authority.

i. *Status determination.* A determination as to whether an employing unit whose status is not known is a subject employer.

24.1(39) *Disqualification provisions.* Those provisions of a state employment security law that set forth the conditions that bar an individual from receiving benefits for a specified period or cancel or reduce the individual's benefits or credits.

24.1(40) *Duration of benefits.* The number of weeks for which benefits are paid or payable for total unemployment in a benefit year. Because there may be deductible wages and other compensation, duration is often described in terms of the total amount of benefits arrived at by multiplying the weekly benefit amount by the number of weeks of total unemployment.

a. Actual duration. The number of full weeks of benefits received by an individual, or the equivalent thereof expressed in terms of dollars.

b. Maximum duration. The highest number of weeks of total unemployment for which benefits are payable to any individual in a benefit year under a state employment security law.

24.1(41) Earnings limit. An amount equal to the weekly benefit amount plus \$15.

24.1(42) Eligibility requirements. Same as benefit eligibility conditions.

24.1(43) Employment interview. A conversation between an applicant and an interviewer directed toward obtaining and recording information pertinent to classification and selection, and giving information pertinent to job seeking.

24.1(44) Employment office. An office maintained by the department of workforce development in accordance with Iowa Code sections 96.12 and 96.25.

24.1(45) Employment security administration fund. See funds.

24.1(46) Employment security law. A body of law which establishes a free public employment service, or a system of unemployment insurance, or both and which may also establish other systems compensating for wage loss, such as temporary disability insurance in Iowa Code chapter 96.

24.1(47) Employment security program. The federal-state program comprising public employment services and unemployment insurance.

24.1(48) Fact-finding interview. A face-to-face or telephonic discussion between interested parties and a department representative for the purpose of obtaining from the claimant a statement containing information on a specific eligibility or disqualification issue. This differs from an eligibility review interview in that a specific issue must exist as a result of a statement made by either the claimant, the liable state, an employer, or the staff of the department.

24.1(49) First UI, UCFE, or UCX payment. A payment issued to a claimant for the first compensable week of unemployment in a benefit year.

24.1(50) Full-time week. See week.

24.1(51) Funds.

a. Administrative funds. Funds made available from federal, state, local and other sources to meet the cost of state employment security administration.

b. Contingency fund. An amount of money appropriated by Congress to meet certain unpredictable increases in costs of administration by the state employment security agencies arising from increases in workload or other specified causes.

c. Special employment security contingency fund. A contingency fund established pursuant to Iowa Code section 96.13(3) into which all interest, fines, and penalties are paid.

d. Employment security administration fund. A special fund in the state treasury, established by state law, in which are deposited moneys granted by the manpower administration and monies from other sources, for the purpose of paying the cost of administering the state employment security program.

e. Title V funds. Funds appropriated by Congress to pay unemployment insurance benefits under Title V of the United States Code to federal, civilian and military employees.

f. Unemployment fund. A special fund established under a state employment security law for the receipt and management of contributions and the payment of unemployment account, clearing account, and unemployment trust fund account.

g. Unemployment trust fund. A fund established in the treasury of the United States which contains all moneys deposited with the treasury by state employment security agencies to the credit of their unemployment fund accounts and by the railroad retirement board to the credit of the railroad unemployment insurance account.

24.1(52) Handbook. The handbook for interstate claims-taking provided by the Employment and Training Administration of the United States Department of Labor.

24.1(53) High quarter formula. See benefit formula.

24.1(54) to 24.1(56) Reserved.

24.1(57) Individual base period. See base period.

24.1(58) Individual benefit year. See benefit year.

24.1(59) Initial claim. See claim.

24.1(60) *Initial determination.* See determination.

24.1(61) *Insured unemployment.* Unemployment during a given week for which benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

24.1(62) *Insured work.* Employment, as defined in a state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act.

24.1(63) *Insured worker.* An individual who has had sufficient insured work in such individual's base period to meet the employment requirements for receipt of benefits under a state employment security law.

24.1(64) *Interstate agreement.*

a. Interstate benefit payment plan. The plan under which each state acts as an agent for every other state in taking claims for individuals who are not in the state in which they earned their base period wages.

b. Interstate reciprocal coverage agreement. An administrative interstate agreement, permitted under most state employment security laws, which provides for the election of coverage of services under specified conditions which may or may not constitute an exception to the mandatory coverage provisions of the state law.

c. Wage-combining agreements. An interstate agreement which allows workers who lack qualifying wages in any one state, or who qualify for less than maximum benefits in one or more states, to qualify or to increase benefits by combining wages from all states.

24.1(65) *Interstate claim.* See claim.

24.1(66) *Interstate claimant.* An individual who files a claim for benefits in an agent state on the basis of employment covered by the employment security law of a liable state.

24.1(67) *Benefit rights information.* Information provided to a claimant for the purpose of explaining the claimant's rights and responsibilities under the law. Such information may be given on a group basis or on an individual basis or the information may be provided electronically.

24.1(68) *Office.*

a. Unemployment insurance service center. A full-time office staffed with workforce development staff to provide unemployment insurance services to the public.

b. Workforce development center. A full-time office staffed with workforce development personnel to provide unemployment insurance or job placement service to the public.

24.1(69) *Lag quarter.* The completed quarter between a claimant's base period and the quarter which includes the beginning date of such claimant's benefit year.

24.1(70) *Layoffs.* See separations.

24.1(71) *Liable state.* Any state against which a worker claims benefits through the facilities of a workforce development center or the job service division of another (agent) state. See also agent state.

24.1(72) *Mail claim.* See continued claims.

24.1(73) *Mass separation.* The separation from a given employing unit of a large number of workers at approximately the same time and for a reason common to all such workers.

24.1(74) *Mass separation notice.* A report of a mass separation sent to the local workforce development center by an employer, stating the number of workers separated and listing their names and other required data. Such a notice serves as a substitute for individual separation notices.

24.1(75) *Maximum benefit amount.* The maximum total amount of benefits an individual may receive during the individual's benefit year.

24.1(76) *Maximum benefits.* The maximum total amount of benefits payable to a claimant during the claimant's benefit year.

24.1(77) *Maximum weekly benefit amount.* See benefit amount.

24.1(78) *Microfiche.* Rescinded IAB 8/6/03, effective 9/10/03.

24.1(79) *Military separations.* See separations.

24.1(80) *Minimum weekly benefit amount.* See benefit amount.

24.1(81) Month. The time beginning with any day of one month to the corresponding day of the next month, or if there is no corresponding day, then through the last day of the next month.

24.1(82) Multistate worker. An individual who performs service for one employer in more than one state.

24.1(83) New claim. See claim.

24.1(84) Noncovered employment. Excluded employment, or employment for an employer below the size-of-firm coverage requirements of the state employment security law.

24.1(85) Notice of separation. A report submitted by an employer at the time when a worker is separated from employment, on which the employer indicates the dates of the last day worked, the separation date and the reason the worker was separated.

24.1(86) Odd job earnings. Any earnings which a claimant may have during a week of unemployment as a result of temporary work with an employing unit other than the claimant's regular employing unit.

24.1(87) Opening. A single job for which a workforce development center has on file a request to select and refer an applicant or applicants.

24.1(88) Outstanding job order request. An active request for referral of one or more applicants to fill one or more job openings in a single occupational classification; also, the record of such request.

24.1(89) Clearance order. Rescinded IAB 8/6/03, effective 9/10/03.

24.1(90) Partial benefits. Benefits payable to an individual for a week of partial unemployment.

24.1(91) Partial earnings allowance. The amount of earnings that are disregarded in calculating a claimant's benefit for a week.

24.1(92) Partial unemployment. See week of unemployment.

24.1(93) Part-time worker. A person engaged in, or available only for, part-time work.

24.1(94) Placement. An acceptance by an employer of a person for a job as a direct result of workforce development center activities, provided the employment office has completed all of the following four steps: receipt of an order, prior to referral; selection of the person to be referred without designation by the employer of any particular individual or group of individuals; referral; and verification from a reliable source, preferably the employer, that a person referred has been hired by the employer and has entered on the job.

24.1(95) Reserved.

24.1(96) Qualifying employment. The amount of insured work which an individual must have had within a specified period in order to be an insured worker. See also benefit eligibility conditions.

24.1(97) Qualifying wages. See wages.

24.1(98) Quits. See separations.

24.1(99) Railroad unemployment insurance account. An account, established pursuant to the Railroad Unemployment Insurance Act, maintained in the federal unemployment trust fund for the payment of benefits provided in that Act.

24.1(100) Readout. Printed data from the claimant database or other types of records stored in the computer.

24.1(101) Reciprocal coverage agreement. See interstate agreements.

24.1(102) Reconsidered determination. Same as redetermination—see determination.

24.1(103) Referee appeals. See appeal, administrative. (Administrative law judge)

24.1(104) Referral. The act of arranging to bring to the attention of an employer (or another workforce development center) the qualifications of an applicant who is available for a job opening on file for which the applicant has been selected by a workforce development center.

24.1(105) Registration. The process of applying for work through an office of the department of workforce development.

24.1(106) Report to determine liability. Same as status report.

24.1(107) Reporting requirements. The rules of procedures of the department of workforce development concerning the frequency and time of required reporting by claimants.

24.1(108) Renewal. The transfer from the inactive to the active file of the application of an applicant who is again considered to be available for referral to job openings.

24.1(109) *Request for determination of insured status.* A request by an individual for a determination of insured status.

24.1(110) *Selection.* The process of choosing a qualified applicant for referral to a job by carefully analyzing and comparing employer requirements with applicant interests and abilities.

24.1(111) *Self-employment.*

24.1(112) *Self-filing (of claim).* The partial or complete filling out of a claim form or request for determination of insured status by the claimant.

24.1(113) *Separations.* All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

24.1(114) *Short-time placement.* A placement in a job which the employer expects to involve work in each of three days or less, whether or not consecutive.

24.1(115) *Social security number.* The identification number assigned to an individual by the Social Security Administration under the Social Security Act.

24.1(116) *Status determination.* See determination.

24.1(117) *Supplemental benefit payment.* A payment issued for the sole purpose of adjusting an underpayment for one or more previous weeks.

24.1(118) *Taxable wages.* See wages.

24.1(119) *Total unemployment.* See week of unemployment.

24.1(120) Reserved.

24.1(121) *Transient.* A claimant who is moving from place to place and who indicates to the agent-state area claims office that such claimant will be only temporarily in the area served by the area office.

24.1(122) *Unemployment fund.* See funds.

24.1(123) *Unemployment trust fund.* See funds.

24.1(124) *Unemployment trust fund account.* See accounts.

24.1(125) *Valid claim.* See claim.

24.1(126) *Verification.* The determination from a reliable source, preferably the employer, whether an applicant referred by a workforce development center has been hired by the employer and has entered on the job. In the case of applicants referred to seasonal agricultural openings, verification is considered complete when it is confirmed that a referred worker has been hired, even though confirmation of the worker's entry on the job may be lacking.

24.1(127) *Visiting claimant.* A claimant who files claims against such claimant's home state through some extension of that state's intrastate claims procedures.

24.1(128) *Wage combining agreement.* See interstate agreement.

24.1(129) *Wage credits.* Wages earned in insured work.

24.1(130) *Wages.* Average weekly wages.

a. For an individual worker, the result obtained by dividing the individual's total wages in a specified period either by the total number of weeks in the period or by the number of weeks for which wages were payable to the individual during the period.

b. For a group of workers, the result obtained by dividing the total wages for one or more quarters by the number of weeks in the period, and then dividing by the average monthly employment during the period.

24.1(131) *Qualifying wages.* The amount of wages a worker must have earned in insured work within a specified period in order to be an insured worker. See also benefit eligibility conditions.

24.1(132) *Taxable wages.* Wages subject to contribution under a state employment security law, or wages subject to tax under the federal Unemployment Tax Act.

24.1(133) Reserved.

24.1(134) *Weekly indemnity insurance benefits.* Payment for nonoccupational illness or injury pursuant to a benefit plan implemented by an employer.

24.1(135) *Week.* A seven-day period beginning at 12:01 a.m. on Sunday and terminating at midnight on the following Saturday.

a. Calendar week. A period of seven consecutive days usually ending at Saturday midnight, used by some state employment security agencies as a unit in the measurement of employment or unemployment.

b. Compensable week. A week for which benefits have been claimed.

c. Full-time week. The number of hours or days per week currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

24.1(136) *Weekly benefit amount.* See benefit amount, or,

24.1(137) *Weekly benefit amount.* The compensation payable to an individual, with respect to employment, under the employment security law of any state.

24.1(138) *Week of unemployment.* A week in which an individual performs less than full-time work for any employing unit if the wages payable with respect to such week are less than a specified amount (usually the weekly benefit amount), or,

24.1(139) *Week of unemployment.* A week during which an individual performs no work and earns no wages, except as indicated and has earnings which do not exceed the earnings limit.

a. Week of partial unemployment. A week in which an individual worked less than the regular full-time hours for such individual's regular employer, because of lack of work, and earned less than the weekly benefit amount (plus the partial earnings allowance, if any, in the state's definition of unemployment) but more than the partial earnings allowance, so that, if eligible for benefits, the claimant received less than such claimant's full weekly benefit amount plus \$15.

b. Week of part total unemployment. A week of otherwise total unemployment during which an individual has odd jobs or subsidiary work with earnings in excess of the amount specified in the state law as allowable without resulting in a reduction in the individual's benefit payment.

c. Week of total unemployment. A week in which an individual performs no work and earns no wages.

24.1(140) *Workload.* The measure of the volume of work for each functional area of the state agency; i.e., the number of contribution (payroll) reports processed, the number of claims taken, the number of applications for employment.

This rule is intended to implement Iowa Code sections 96.3(5), 96.3(7), 96.4(3), 96.5(5) "c," 96.6, 96.7(2) "a"(2), 96.11, 96.19(16), and 96.23.

871—24.2(96) Procedures for workers desiring to file a claim for benefits for unemployment insurance.

24.2(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits and register for work.

(1) An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

(2) Reserved.

b. The procedure for filing an initial claim. An individual, following a separation from work, shall report in person at the nearest workforce development center with the individual's social security number, and the individual shall register for work and file a claim for benefits on the Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, prescribed by the department and shall provide, in addition to other requested information, the following information:

- (1) The name and complete mailing address of such individual's last employing unit or employer;
- (2) The location of the last job;
- (3) Last day of work;
- (4) The reason for separation from work;
- (5) That such individual is unemployed;
- (6) That the individual registers for work;
- (7) The individual's last job occupation;

(8) Number, name and relationship of any dependents claimed. As used in this subparagraph, "dependent" is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant, stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin.

A "spouse" is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim.

A "dependent" means an individual who has been or could have been claimed for the preceding tax year on the claimant's income tax return or will be claimed for the current income tax year. The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

(9) The option of filing for continued benefits by using the voice response continued claim system or by other means designated by the department.

(10) Such other information as required by the form.

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. The claims taker will then assign a group code to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. The group codes are:

(1) Group "1" claimants are workers who have a definite attachment to a specific employer or trade and have reasonable employment prospects in a reasonable period of time. These claimants will be registered for work.

(2) Group "2" claimants are those individuals who do not otherwise meet the qualification for group "1," "3," "4," "5," or "6" under this section. Group "2" claimants may also include the following: claimants who were employed in demand occupations; irregular employment record (in reference to occupation); delay in claim filing; moved to address remote from labor market or transportation problems; unfavorable job prospects because of recent arrival in locality; farming activities; self-employment assuming otherwise eligible; students or prospective students; pensioners; domestic care or problems; previous fraud or overpayment record; physical impairment or poor health which would limit employability; personal or other restrictions (wages, hours, travel).

(3) Group “3” claimants are workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, of four consecutive weeks or less, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual’s regular “employer.” This group pertains only to those individuals who worked full-time and will again work full-time if the individual’s employment, although temporarily suspended, has not been terminated. After a period of temporary unemployment, claimants in this group are reviewed for placement in group “1,” “2,” “5” or “6.”

(4) Group “4” claimants are those individuals who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee’s job. Group “4” claimants with an individual benefit year starting prior to July 1, 1984, shall be able to work, available for work and have the search for work provisions of Iowa Code section 96.4(3) waived. Group “4” claimants with an individual benefit year starting on or after July 1, 1984, shall have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The group “4” code shall not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(5) Group “5” claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership is acceptable as evidence of membership in such an organization. Loss of membership shall result in an assignment to group “2.”

(6) Group “6” claimants are those individuals whose occupations are of a nature that utilize résumés or who are normally unable, due to factors such as occupation, distance, etc., to make in-person contacts for employment.

(7) Nothing in this rule shall be construed as prohibiting an authorized representative of the department from requiring claimants for unemployment insurance benefits to avail themselves of workforce development center referral and counseling services if deemed beneficial and necessary to obtain prompt reemployment, nor shall anything in this rule be construed to deny referral or counseling service to claimants for unemployment insurance benefits.

d. Reserved.

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual’s account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

f. After the initial claim has been filed, the claimant will receive from the local office or the administrative office a Form 65-5318, which is a notice of the action taken on the claim, and if such claimant is eligible for benefits this notice will state the date on which the benefit year will begin, the amount per week, and the maximum amount for which the claimant is eligible.

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

The individual shall set forth the following:

- (1) That the individual continues the claim for benefits;
- (2) That except as otherwise indicated, during the period covered by the claim the individual was unemployed, earned no wages and received no benefits, was able to work and available for work;
- (3) That the individual indicates the number of employers contacted for work;
- (4) That the individual knows the law provides penalties for false statements in connection with the claim;
- (5) That the individual has reported any job offer received during the period covered by the claim;
- (6) Other information required by the department.

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

i. An individual shall be entitled to partial benefits for any week of less than full-time work, provided the wages earned during such week are less than the individual's weekly benefit earning limit, plus \$15. If the individual has been placed on reduced employment the individual may be entitled to partial benefits, and should file a claim in accordance with the instructions pertaining to the partial claims procedure.

j. Reserved.

k. Any individual who is disqualified for benefits because of the individual's failure to report as directed to file a claim following the date specified may appeal to the department for the right to establish good cause for failure to report because of extraordinary circumstances. A representative of the department may deny the request and the decision may be appealed to an administrative law judge for a hearing and decision on the merits. If the petition is allowed the petitioner shall be allowed to file a claim for and receive full benefits for each week for which such claim is filed, if otherwise eligible.

24.2(2) Filing a claim for unemployment insurance benefits (not applicable to interstate claims).

a. A notice of claim filing, which includes the name and social security number of the individual claiming benefits, shall be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

b. Even though the claims taker may believe that the claimant cannot meet the eligibility conditions required by statute, the claims taker shall in no instance refuse to accept a claim from any unemployed individual. If the claimant elects to file a claim, even though the claimant's eligibility may be questionable, the claim shall be accepted without hesitation. The claimant must provide adequate proof of identification such as a driver's license, car registration, or union membership card or supply personally identifying information.

c. If a claim was filed in a previous quarter and was determined not eligible because of no wage records, or lack of qualifying earnings, a benefit year has not been established and a new claim will be taken. A new claim should not be taken if the claimant previously has filed an ineligible claim in the same quarter unless the claimant insists on filing after being advised of ineligibility. The claims taker shall explain to the claimant that another claim filed in the same quarter would also be determined as ineligible because additional wage credits (if any) would not be available until a subsequent quarter. The claimant should be advised to file a new claim during the first full week of the next calendar quarter.

d. If the check of the files does not disclose a previous claim and the claimant states that a claim has not been filed during the past year, a new claim shall be taken.

e. Partially unemployed claims.

(1) A partially unemployed individual shall file a claim for benefits in the same manner as an initial claim for unemployment insurance.

(2) Reporting wages. A partially unemployed individual shall report all wages which are earned for each week benefits are claimed.

(3) A claimant in a continuous reporting status, employed with the same employer, may exceed the claimant's weekly benefit amount plus \$15 for four consecutive weeks before the individual is required to file an additional claim for benefits.

24.2(3) Filing a claim for unemployment insurance benefits (interstate only).

a. Initial interstate claims. The filing of an initial interstate claim shall conform to all requirements of this rule with the exception of the initial claim form. Both agent and liable states shall use the Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the Interstate Handbook.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.2(4) Cancellation of unemployment insurance claim.

a. A request for cancellation of an unemployment insurance claim may be made by the individual in writing and be directed to the Unemployment Insurance Service Center, Department of Workforce Development, P.O. Box 10332, Des Moines, Iowa 50306. The statement must include the specific reason for the request and contain as much pertinent information as possible so that a decision can be made.

b. A cancellation request which is the result of employer coercion or intimidation shall be denied and the employer could be subjected to serious misdemeanor charges.

c. Cancellation requests within the ten-day protest period. The claims section, upon review of the timely request and before payment is made, may cancel the claim for the following reasons:

(1) The individual found employment or returned to regular employment within the protest period.

(2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.

(3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.

(4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

d. Other valid reasons for cancellation whether or not ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance which was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim must be filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) The Iowa wages are erroneous and are deleted and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

e. If a claim is canceled and becomes final with no appeal being filed, a valid claim with Iowa as the paying state shall not be reestablished with the same effective date.

f. Voiding a claim. If it is determined a claim has been filed under an incorrect social security number, the claim shall be voided rather than canceled.

g. All unemployment insurance claims canceled shall be clearly identified as such and the administrative record of the individual's file shall be destroyed three years after final action.

This rule is intended to implement Iowa Code sections 96.3(3), 96.3(4), 96.4(1), 96.4(3), 96.5(1) "h," 96.5(3), 96.6(1), 96.6(2), 96.15, 96.16, 96.19(4), 96.19(24), and 96.20.

871—24.3(96) Social security number needed for filing.

24.3(1) The claims taker must have the social security number of the claimant. The correct social security number is essential in the processing of the claim. Therefore, if the claimant has a social security card, the number must be taken from that card or be provided by the claimant. If the claimant has two or more social security numbers, the claim shall be held until the claimant ascertains which number is correct.

24.3(2) When a claimant does not have a social security card and no other record of the claimant's social security number is available the claims taker shall advise the claimant that the number may be available from the claimant's employer.

24.3(3) In all such instances, the claims taker shall take the claim and hold it pending receipt of the social security number for a period not to exceed 30 days. If no number is provided by the claimant within 30 days, the claims taker shall submit the claim without a number. Such claims will be determined as ineligible (no wage credits).

24.3(4) and **24.3(5)** Rescinded IAB 8/6/03, effective 9/10/03.

24.3(6) The department will assist the claimant in every reasonable manner so that the claim may be processed in the shortest possible time.

871—24.4(96) Benefit rights information.

24.4(1) *Intrastate benefits.* Benefit rights information is provided to each individual filing an initial claim for benefits to explain those provisions in the law and rules which govern the individual's monetary eligibility, rights and responsibilities under Iowa's unemployment insurance program. The benefit rights information may be given by an individual or group type interview or by telephone or electronically. A Form 70-6200, Facts About Unemployment Insurance, will be provided which explains the individual's rights, benefits, and responsibilities under Iowa's unemployment insurance program.

24.4(2) *Interstate benefits.* Benefit rights information is not required for each individual who files an initial claim for interstate benefits. Claimants will be advised to contact the liable state which will provide additional information explaining the individual's rights, benefits, and responsibilities under the liable state's unemployment insurance program.

24.4(3) *Federal benefits.* Rescinded IAB 8/6/03, effective 9/10/03.

871—24.5(96) Mass separation—definition and procedure.

24.5(1) *Mass separation.* A mass separation is a layoff of all or a large number of workers, either permanently, indefinitely, or for a specific duration by one or more employers in the same area, at approximately the same time, and for the same common reason.

a. The special procedures for mass claim filing may be applied by the department, and the procedures may include taking claims at a designated site or utilizing an electronic mass claim entry form.

b. If other facilities must be obtained for a mass layoff, the order of precedence for obtaining such facilities will be as follows:

- (1) Interested employer involved.
- (2) Bona fide union which represents the workers.
- (3) Public facility (i.e., courthouse, city hall).

24.5(2) Cooperation of employers. To enable workforce development centers to make the preliminary arrangements for mass claim taking, the major employers in the area should notify the local office in advance, as soon as they know that a mass separation will take place. The workforce development center shall provide the information to legal counsel for the unemployment insurance services bureau so that the mass claim separation can be coordinated between the affected parties. This information should include:

- a.* The number of workers to be separated.
- b.* The date of separation and, if staggered, the number on each date.
- c.* Reason for layoff.
- d.* Its probable duration.
- e.* If recall is anticipated, the date it will begin and, if staggered, the number to be recalled on each date.
- f.* Rescinded IAB 8/6/03, effective 9/10/03.
- g.* Reserved.
- h.* If the layoff is for vacation or inventory purposes, the employer shall follow the vacation pay procedure in rules 24.16(96) and 24.17(96).

24.5(3) Methods of mass claim taking. The department may adopt a plan, which is based on the employer's workers, the circumstances and the size of the layoff.

24.5(4) Announced mass separation. If a mass separation occurs about which the department of workforce development has not been advised in advance in sufficient time to preschedule claimants, then the claimants will be advised of the alternative methods to file their claims as quickly as possible. The department will develop a plan to provide service to the claimants as quickly as possible under the circumstances.

This rule is intended to implement Iowa Code section 96.6(1).

871—24.6(96) Profiling for reemployment services.

24.6(1) The department of workforce development and the department of economic development will jointly provide a program which consists of profiling claimants and providing reemployment services.

24.6(2) Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

24.6(3) Reemployment services may include, but are not limited to, the following:

- a.* An assessment of the claimant's aptitude, work history, and interest.
- b.* Employment counseling regarding reemployment approaches and plans.
- c.* Job search assistance and job placement services.
- d.* Labor market information.
- e.* Job search workshops or job clubs and referrals to employers.
- f.* Résumé preparation.
- g.* Other similar services.

24.6(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

24.6(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

24.6(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.

b. Reserved.

This rule is intended to implement Iowa code section 96.4(7).

871—24.7(96) Workers' compensation or indemnity insurance exclusion and substitution.

24.7(1) An individual who has received workers' compensation under Iowa Code chapter 85 during a healing period or temporary total disability benefits or indemnity insurance benefits for an extended period of time and has insufficient wage credits in the base period may qualify for unemployment insurance benefits. Under specific circumstances as described below, the department shall exclude certain quarters in the base period and substitute three or more consecutive calendar quarters immediately preceding the base period which were prior to the workers' compensation or indemnity insurance benefits.

24.7(2) An individual may receive workers' compensation during a healing period or temporary total disability benefits or indemnity insurance benefits until the individual returns to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury.

24.7(3) The department shall make an initial determination of eligibility for unemployment insurance benefits. If the individual has no wage records or lacks qualifying wage requirements, the department shall substitute three or more calendar quarters of the base period with those three or more consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation benefits or indemnity insurance benefits. The qualifying criteria for substituting quarters in the base period are that the individual:

a. Must have received workers' compensation benefits under Iowa Code chapter 85 or indemnity insurance benefits for which an employer is responsible during the excluded quarters, and

b. Did not work in and receive wages from insured work for:

(1) Three or more calendar quarters in the base period, or

(2) Two calendar quarters and lacked qualifying wages from insured work during another quarter of the base period.

24.7(4) Subject to the provisions of subrule 24.7(3), the department shall use the following criteria for allowances and disqualifications.

a. Allowances. When the allowance criteria are met, the department shall always exclude and substitute at least three quarters of the base period if the individual received workers' compensation or indemnity insurance benefits in:

(1) Four base period quarters with no earnings in at least two of the quarters and the individual lacks qualifying earnings, the department will exclude and substitute all four quarters of the base period.

(2) Three no earnings base period quarters, with or without earnings in the fourth quarter, the fourth quarter remains in the base period and the department will exclude and substitute only three quarters in the base period.

b. Disqualifications. The request for retroactive substitution of base period quarters shall be denied if the individual received workers' compensation or indemnity insurance benefits in:

(1) At least three base period quarters but the individual is currently monetarily eligible with an established weekly and maximum benefit amount.

(2) At least three base period quarters and the individual has base period wages in three or more of the base period quarters, but the claim lacks qualifying earnings.

(3) Less than three base period quarters.

24.7(5) The individual shall be requested to complete the Affidavit and Questionnaire, Form 60-0286, which requests the following information:

- a.* Individual's name and social security number.
- b.* Name of employer responsible for the workers' compensation benefits or the indemnity insurance benefits.
- c.* Names of employers and periods worked for the period preceding the workers' compensation or the indemnity insurance pay period.
- d.* Name of the workers' compensation or indemnity insurance carrier or, if self-insured, the name of the employer.
- e.* Specify whether the wages determined to be in the individual's base period were or were not received for working in insured work during the base period.

24.7(6) The department will mail the redetermined initial claim to the individual. When the claim for benefits is determined to be monetarily eligible for payment, the employer responsible for the workers' compensation or the indemnity insurance benefits shall be notified of the redetermination and shall be responsible for the charges on the redetermined claim which are solely due to wage credits considered to be in the individual's base period due to the exclusion and substitution of calendar quarters. The employer responsible for the workers' compensation or indemnity insurance benefits shall have the right to protest as provided in rule 24.8(96).

871—24.8(96) Notifying employing units of claims filed, requests for wage and separation information, and decisions made.

24.8(1) Mailing of a notice of the filing of an initial claim or a request for wage and separation information to employing units.

a. The Form 65-5317, Notice of Claim, and the Form 68-0221, Request for Wage and Separation Information, shall be addressed to:

- (1) The address or addresses as requested by the employing unit and agreed to by the department;
- or
- (2) The business office of the employing unit where the records of the individual's employment are maintained; or
 - (3) The employing unit's place of business where the individual claiming benefits was most recently employed.

b. A notice of the filing of an initial claim or a request for wage and separation information shall be mailed to an owner, partner, executive officer, departmental manager or other responsible employee of the employing unit or to an agent designated to represent the employing unit in unemployment insurance matters.

(1) An agent who has been authorized to represent an employing unit in unemployment insurance matters may be furnished information from the files of the department to the extent designated in the authorization and in the same manner and to the same extent that the information would be furnished to the employing unit.

(2) The appointment of an agent to act for the employing unit and to receive documents and reports in no way abrogates the right of department representatives to deal directly with the employing unit when it appears that this will best serve the interest of the parties.

24.8(2) Responding by employing units to a notice of the filing of an initial claim or a request for wage and separation information and protesting the payment of benefits.

a. The employing unit which receives a Form 65-5317, Notice of Claim, or a Form 68-0221, Request for Wage and Separation Information, must, within ten days of the date of the notice or request, submit to the department wage or separation information that affects the individual's rights to benefits, including any facts which disclose that the individual separated from employment voluntarily and without good cause attributable to the employer or was discharged for misconduct in connection with employment.

b. The employing unit may protest the payment of benefits if the protest is postmarked within ten days of the date of the notice of the filing of an initial claim. In the event that the tenth day falls on a

Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If the employing unit has filed a timely report of facts that might adversely affect the individual's benefit rights, the report shall be considered as a protest to the payment of benefits.

c. If the employing unit protests that the individual was not an employee and it is subsequently determined that the individual's name was changed, the employing unit shall be deemed to have not been properly notified and the employing unit shall again be provided the opportunity to respond to the notice of the filing of the initial claim.

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be made by mail using Form 60-0154, Notice of Separation, or by telephone using a telephone number designated by the department.

(1) The Notice of Separation, Form 60-0154, must be postmarked or received before or within ten days of the date that the Notice of Claim, Form 65-5317, was mailed to the employer. In the event that the tenth day falls on Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If a claim for unemployment insurance benefits has not been filed, the Notice of Separation may be accepted at any time.

(2) Rescinded IAB 2/10/99, effective 3/17/99.

24.8(3) Completing and signing of forms by an employing unit which may affect the benefit rights of an individual.

a. A notice of separation, and any response by an employing unit or its authorized agent to a notice of the filing of an initial claim or a request for wage and separation information, shall be accomplished by properly completing the form or computerized format provided by the department.

b. A notice of separation, and any paper response by an employing unit or its authorized agent to a notice of the filing of an initial claim or a request for wage and separation information, shall be executed by the employing unit on the form provided by the department under the signature of an individual proprietor, a partner, an executive officer, a department manager or other responsible employee who handles employee information, or who has direct knowledge of the reasons for the individual's separation from employment or by completing the computerized form designated by the department.

c. Failure by an employing unit or its authorized agent to properly complete or sign any form provided by the department relating to the adjudication of a claim shall result in the return of the form to the employing unit or its authorized agent for proper completion or signature; however, an extension of any notice or response period to allow for the return of the form shall not be granted.

d. Failure by an employing unit or its authorized agent to timely submit any notice or response requested by the department shall result in the department representative's making a determination of the individual's rights to benefits based on the information available.

24.8(4) Mailing of determinations, redeterminations and decisions to employing units.

a. An employing unit which has filed a timely response or protest to the notice of the filing of an initial claim shall be notified in writing of the determination as to the individual's rights to benefits. If an employing unit of the individual has submitted timely information affecting the individual's rights to benefits, including facts which disclose that the individual voluntarily quit without good cause attributable to the employing unit or was discharged for misconduct in connection with employment, the employing unit shall be notified in writing of the department's decision as to the cause of termination of the individual's employment.

b. Any notice of determination or decision shall contain a statement setting forth the employing unit's right of appeal.

c. Determinations as to an individual's right to benefits, decisions as to the cause of termination of the individual's employment, decisions as to an employing unit's experience record and correspondence related thereto shall be sent to:

(1) The address of the employing unit to which the notice of the filing of an initial claim was mailed;

or

(2) The address requested by the employing unit on the document filed with the department in response or protest to the notice of the filing of an initial claim;

(3) If the employing unit in its response or protest to the notice of the filing of an initial claim furnishes the address of an agent for the employing unit and requests that further documents and correspondence be sent to the agent, the department representative shall comply, provided there is on file with the department an approved authorization (power of attorney) designating the agent to represent the employing unit.

871—24.9(96) Determination of benefit rights.

24.9(1) Monetary determinations.

a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65-5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

c. If newly discovered facts are obtained by the department or a written request for reconsideration is filed by the individual and is timely, an unemployment insurance representative shall examine the facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the monetary record shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual within ten days of the date of the mailing of the redetermination specifying the grounds of objection to the redetermined monetary record. For the purposes of this paragraph, if the newly discovered facts obtained by the department would result in a change of the individual's maximum benefit amount of \$25 or less, the department representative is not required to issue a redetermination unless a redetermination is requested by the individual, the employer, or a representative of another state or federal agency responsible for the administration of an unemployment insurance law.

d. For the purposes of this subrule, the appeal period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday, or holiday. Also, failure of an individual to properly complete and sign any document relating to the adjudication of a claim shall result in the return of the document to the individual for proper completion or signature; however, an extension of the appeal period to allow for the return of the documents shall not be granted.

24.9(2) Nonmonetary determinations.

a. When a protest of an initial claim for benefits is filed, the department shall mail to the individual claiming benefits, and the most recent or any other base period employing unit, either a Form 60-0186 (manually generated) or a Form 65-5323 (computer generated), Unemployment Insurance Decision, which affects the individual's right to benefits.

b. The interested parties shall be afforded the opportunity to present facts and evidence in person or by telephone at an informational fact-finding interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may tape (video or audio) the proceedings. All participants must be informed of the taping of the interview. The taping of the interview must not be disruptive or distracting in nature.

c. Each of these decisions of the unemployment insurance representative shall constitute a final decision unless there are newly discovered facts which affect the validity of the original decision or a written request for reconsideration is filed by the individual, or the most recent or any other base period employing unit, within ten days of the date of the mailing of the decision specifying the grounds of objection to the decision.

d. If newly discovered facts are obtained by the department or a written request for reconsideration is timely filed by the individual, or the most recent or any other base period employing unit, an unemployment insurance representative shall examine the newly discovered facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the decision shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual, or the most recent or any other

base period employing unit, within ten days of the date of the mailing of the redetermination specifying the grounds for objection to the redetermined decision.

e. For the purposes of this subrule, the protest period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday or holiday. Also, failure by an individual or an employing unit to properly complete or sign any document relating to the adjudication of a claim shall result in the return of the document to the individual or employing unit for proper completion or signature; however, an extension of the protest period to allow for the return of the document shall not be granted.

871—24.10(96) Employer and employer representative participation in fact-finding interviews.

24.10(1) “Participate,” as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if un rebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer’s representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer’s representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

24.10(2) “A continuous pattern of nonparticipation in the initial determination to award benefits,” pursuant to Iowa Code section 96.6, subsection 2, as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter beginning with the first calendar quarter of 2009, the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator shall notify the employer’s representative in writing after each such appeal.

24.10(3) If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6, subsection 2, has engaged in a continuous pattern of nonparticipation, the division administrator shall suspend said representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on the third or subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

24.10(4) “Fraud or willful misrepresentation by the individual,” as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

This rule is intended to implement Iowa Code section 96.3(7) “*b*” as amended by 2008 Iowa Acts, Senate File 2160.

871—24.11(96) Eligibility review program.

24.11(1) Purpose. The eligibility review program is used to accelerate the individual's return to work and systematically review the individual's efforts toward the same goal.

24.11(2) Individuals requiring an eligibility review.

a. Selected individuals claiming intrastate benefits and interstate benefits shall be required to complete the eligibility review Form 60-0232 at times determined by the department after they have filed an initial or additional claim.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(3) Eligibility review form. Form 60-0232 contains information relating to eligibility and availability furnished by and to the individual, instructions and advice on reemployment that is given to the individual and the results of the individual's job search efforts.

a. The Eligibility Review Form 60-0232 encourages individuals to record information that bears directly on reemployment prospects and continued eligibility data.

b. It should conserve benefit funds through early identification of individuals who are restricting their availability.

c. It assures that job-ready individuals receive maximum exposure to available jobs by a workforce development center.

24.11(4) Eligibility review procedure.

a. After an individual has claimed a number of weeks of intrastate benefits as designated by the department, the workforce development center shall receive a computer selected list of individuals claiming benefits. The list shall be retained in the workforce development center so work search assistance and reemployment services can be provided as needed by the claimant.

b. No eligibility review will be performed on an individual unless monetary and nonmonetary eligibility are established.

c. An Eligibility Review Questionnaire shall be mailed or provided to the individual.

d. A copy of the Eligibility Review Questionnaire shall be sent to the workforce development center only on an individual who is in an active status at the time of its printing. If the individual fails to respond to the Eligibility Review Questionnaire within the designated period of time printed on the questionnaire, the workforce development center shall issue a Form 60-0131, Notice to Report. If the individual does not respond after this action has been taken, the department must issue an appropriate failure to report decision and lock the claim to prevent payment.

e. In cases of illness, injury or pregnancy, an unemployment insurance representative shall determine when and if a personal appearance shall be conducted. The representative shall be responsible for determining continuing eligibility or noneligibility of the individual based on the information obtained on the Form 60-0141, Request for Medical Report, or the facts presented during the interview. If the representative believes an additional Form 60-0141 may be needed, the representative shall initiate the request in the regular manner. Special attention shall be given to work search, i.e., number of contacts, types of contacts and the available job market information.

f. Before an administrative law judge can rule on a disqualification for failure to report at an Iowa workforce development center as directed, there must be evidence to show that the individual was required to report for an interview.

g. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(5) Scheduling first eligibility review interview. Individuals shall be scheduled for an eligibility review interview if:

They are in demand occupations and still unemployed; it appears that they need help in finding work or their eligibility is suspect.

24.11(6) Eligibility Review Form 60-0232.

a. The Eligibility Review Form shall be completed by the individual. This form documents the information provided by the individual. The unemployment insurance representative reviews the information to determine if there are any disqualifying issues that need to be reviewed by conducting an interview in the local office or by telephone. If the interview is conducted by telephone, the individual may waive the opportunity for an in-person interview. The form also contains the individual's work

search plan and the unemployment insurance representative's advice and instruction to the individual concerning eligibility requirements and work search plans.

b. Rescinded IAB 8/6/03, effective 9/10/03.

24.11(7) *Conducting the first eligibility review interview.*

a. All available evidence must be examined to detect potentially disqualifying issues.

b. The individual's need for advice, assistance or instructions must be determined and conveyed to the individual.

c. The interview as recorded on the form must convey to the individual the requirements that must be satisfied to maintain eligibility insofar as work search and availability are concerned.

d. This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment which otherwise would result in referral for adjudication.

e. The individual shall be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy considering local labor market information and the individual's occupation.

f. The final objective of the interview is to determine whether a subsequent interview is needed. This shall be based on expected return to work date, job openings in area, local labor market conditions, etc.

24.11(8) *Eligibility Review Statistics, Form 68-0150.* Rescinded IAB 8/6/03, effective 9/10/03.

This rule is intended to implement Iowa Code sections 96.4(3) and 96.6(1).

871—24.12 Reserved.

871—24.13(96) Deductible and nondeductible payments.

24.13(1) *Procedures for deducting payments from benefits.* Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits shall be deducted from benefits in accordance with the following procedures until the amount is exhausted; however, vacation pay which is deductible in the manner prescribed in rule 24.16(96) shall be deducted first when paid in conjunction with other deductible payments described in this rule unless otherwise designated by the employer: The individual claiming benefits is required to designate the last day paid which may indicate payments made under this rule. The employer is required to designate on the Form 65-5317, Notice of Claim, the amount of the payment and the period to which the amount applies. If the individual or the employer does not designate the period to which the amount of the payment applies, and the unemployment insurance representative cannot otherwise determine the period, the unemployment insurance representative shall determine the week or weeks following the effective date of the claim to which the amount of the payment applies by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The amount of any payment under subrule 24.13(2) shall be deducted from the individual's weekly benefit amount on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96). The amount of any payment under subrule 24.13(3) shall be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

24.13(2) *Deductible payments from benefits.* The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 24.18(96):

a. Holiday pay. However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.

b. Commissions. However, the commission payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

c. Incentive pay. However, the incentive payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

d. Strike pay. However, the strike pay is only deductible when it is a payment received for services rendered and the individual is otherwise eligible for benefits.

e. Remuneration other than cash. The cash value of all remuneration payable in any medium other than cash, board, rent, housing, lodging, meals, or similar advantage, is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

f. Stand-by pay. When an individual is paid to hold oneself in readiness for a call to specific work for an employer but is not called, since the work is given to another, the payment is stand-by pay which is deductible from benefits when earned by the individual during the period when the individual is claiming benefits.

g. Tips or gratuity. However, the amount of the tips or gratuity is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

24.13(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

a. Wage interruption insurance payment. Any insurance payment received or due from wage interruption insurance because of fire, disaster, etc.

b. Excused personal leave. Excused personal leave, also referred to as casual pay or random pay, is personal leave with pay granted to an employee for absence from the job because of personal reasons. It shall be treated as vacation and be fully deductible in the manner prescribed in rule 871—24.16(96).

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

d. Workers' compensation, temporary disability only. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

e. Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced by that portion of the payment which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

24.13(4) Nondeductible payments from benefits. The following payments are not considered as wages and are not deductible from benefits:

a. Self-employment income. However, the individual must meet the benefit eligibility requirements of Iowa Code section 96.4(3).

b. Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

c. Remuneration for work performed by the individual claiming benefits in exchange for county relief in the form of groceries, rent, etc.

d. Payment for unused sick leave.

e. National guard duty pay. This includes reserve unit drill pay for any branch of the armed service.

f. Supplemental unemployment benefit plans approved by the department. See 871—subrule 23.3(1), paragraph "e," for criteria and employer procedure for obtaining department approval.

g. Pension to the blind.

h. Payment for terminal leave. Any payment received by military personnel for unused leave upon discharge.

i. Compensation for military service-connected disability from the Department of Veterans Affairs.

j. Payments to the surviving spouse of a regular or disability pension based on the work of the deceased spouse.

k. Deferred wage compensation. Remuneration received by the individual for wages earned in a period prior to the individual's claim for benefits shall not be deductible during the period in which the individual is claiming benefits.

l. Witness and jury fees. These fees are reimbursement for expenses and are not considered as wages.

m. Supplemental security income. This payment is nondeductible because it is financed by income taxes and not social security taxes and is based on need factors such as age, mental or physical disability, and personal income, and not on previous employment.

n. Federal social security benefit and social security disability payments.

This rule is intended to implement Iowa Code sections 96.3(3), 96.5, 96.5(5), 96.11(1), and 96.19(38).

[ARC 1367C, IAB 3/5/14, effective 4/9/14]

871—24.14 and 24.15 Reserved.

871—24.16(96) Vacation pay.

24.16(1) If the employer properly notifies the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted. For the purposes of this rule, rule 871—24.13(96), and rule 871—24.17(96), the term “vacation pay” shall include paid time off and annual leave payments.

24.16(2) If the employer makes the original designation of the vacation period in a timely manner, the employer may extend the vacation period by designating the period of the extension in writing to the department before the period of extension begins.

24.16(3) If the employer fails to properly notify the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, the entire amount of the vacation pay shall be applied to the one-week period starting on the first workday following the last day worked as defined in subrule 24.16(4). However, if the individual does not claim benefits after layoff during the normal employer workweek immediately following the last day worked, then the entire amount of the vacation pay shall not be deducted from any week of benefits.

24.16(4) Unless otherwise specified by the employer, the amount of the vacation pay shall be converted by the department to eight hours for a normal workday and five workdays for a normal workweek.

This rule is intended to implement Iowa Code section 96.5(7).

[ARC 1367C, IAB 3/5/14, effective 4/9/14]

871—24.17(96) Vacation pay procedure.

24.17(1) Employer notice specified vacation or holiday pay only. The Form 65-5317, Notice of Claim, the Form 62-2048, Request for Federal Wage and Separation Information, and the Form 62-2049, Request for Wage and Separation Information on Federal Employment Additional Claim, which are returned by the employer for the purpose of notification of vacation pay, shall be used as notification to the department that vacation pay is applicable. The Forms 65-5317, 62-2048, and the 62-2049 received in the administrative office shall be routed to the appropriate office for the following action:

a. Upon receipt of the vacation information, the unemployment insurance representative shall immediately issue the appropriate decision concerning the vacation pay to the employer and to the claimant. The unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.

b. The representative shall compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies, the representative shall initiate immediate action to set up an overpayment or underpayment as appropriate.

c. If the computer record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation period, the unemployment insurance representative shall take no further action on the weeks not claimed.

d. The claimant shall be instructed to only report vacation pay applicable to the first week. The claimant shall also be instructed that vacation pay designated by the employer in excess of one week may result in an overpayment of benefits.

24.17(2) Reserved.

This rule is intended to implement Iowa Code section 96.5(7).

871—24.18(96) Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the nearest dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code sections 96.3, 96.4 and 96.19(38).

871—24.19(96) Determination and review of benefit rights.

24.19(1) Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. Such notice to the claimant shall advise of the weekly benefit amount, duration of benefits, wage records, other data pertinent to benefit rights, and if disqualified, the time of and reason for such disqualification. If a claimant is ineligible, such claimant shall be advised of such ineligibility and the reason therefor. Each notice of benefit determination which the department is required to furnish to the claimant shall, in addition to stating the decision and its reasons, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken. Unless the claimant or any such other party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

24.19(2) Each interested party will be afforded the opportunity to have an in-person fact-finding interview regarding matters which are scheduled for a hearing. However, when it is impractical for the department to conduct an in-person fact-finding, the fact-finding may be conducted in whole or in part by telephone at the discretion of the department. The department shall reserve the right to call any interested party in for an in-person fact-finding interview.

24.19(3) Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the claims section may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. The claimant or any other party filing the request for review shall be promptly notified of the decision or referral. Unless the claimant or any other party files an appeal within ten days after the date of mailing, the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

871—24.20 and 24.21 Reserved.

871—24.22(96) Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

24.22(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

24.22(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

a. Shift restriction. The individual does not have to be available for a particular shift. If an individual is available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

b. Job test. The best method of testing availability for work is an offer of work or job test. If a job test is not possible because of lack of a suitable offer, the active search for work is relied on and conclusions are likely to be based entirely on the fact that the individual did or did not make a search, without regard to the fact that the individual's personal efforts had little probability of success.

c. Intermittent employment. An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

d. Jury duty. The individual is considered available for work while serving on jury duty because time spent in jury service is not a personal service performed under a contract of hire in an employment situation but is a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual full-time. Witness and jury fees will be considered as reimbursement for expenses and not as wages.

e. Company employment office. The department is not bound by a union/company contract that requires the individual to report at the company employment office. The individual is an independent agent seeking work, and may be found available, if an otherwise diligent search of work is made.

f. Part-time worker, student—other. Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

g. Work release program while incarcerated. For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of Iowa Code section 96.4(3); but the department will review any situation concerning an individual incarcerated in a jail, who can meet the able to work, availability for work, and actively seeking work requirements of Iowa Code section 96.4(3).

h. Available for part of week. Each case must be decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

i. On-call workers.

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and must be determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payment of benefits between contracts or terms and during customary and established periods of holiday recesses is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. An on-call worker (includes a substitute teacher) is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38) "a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

k. Effect of religious convictions on Sabbath day work. An individual is considered as available for work if the precepts of the individual's religion prohibit work on the Sabbath. An individual who refuses to work on the Sabbath designated by the individual's religion, because of conscientious observance of the Sabbath as a matter of religious conviction, is also deemed to have good cause for refusing the work.

l. Available for work. To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist, or if that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

m. Restrictions and reasonable expectation of securing employment. An individual may not be eligible for benefits if the individual has imposed restrictions which leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, location of work, etc., or may be physical restrictions.

n. Corporate officers. To be considered available, the corporation officer must meet the same tests of availability as are met by other individuals. The individual must be desirous of other work, be free from serious limitations and be seriously searching for work. The reported efforts of a corporate officer to seek work should be studied to distinguish those directed toward obtaining work for the officer as an individual and those directed to obtaining work or business for the corporation. Any effort to obtain business for the corporation to perform is a service to the corporation and is not evidence of the individual's own availability for work.

o. Lawfully authorized work. An individual who is not lawfully authorized to work within the United States will be considered not available for work.

24.22(3) *Earnestly and actively seeking work.* Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the

individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

a. Basic requirements. An individual shall be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The circumstances in each case are considered in determining whether an earnest and active search for work has been made. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for work if found by the department to constitute a reasonable means of securing work by the individual, under the facts and circumstances of the individual's particular situation:

(1) Making application with employers as may reasonably be expected to have openings suitable to the individual.

(2) Registering with a placement facility of a school, college, or university if one is available in the individual's occupation or profession.

(3) Making application or taking examination for openings in the civil service of a governmental entity with reasonable prospects of suitable work for the individual.

(4) Responding to appropriate "want ads" for work which appears suitable to the individual if the response is made in writing or in person or electronically.

(5) Any other action which the department finds to constitute an effective means of securing work suitable to the individual.

(6) No individual, however, is denied benefits solely on the ground that the individual has failed or refused to register with a private employment agency or at any other placement facility which charges the job-seeker a fee for its services. However, an individual may count as one of the work contacts required for the week an in-person contact with a private employment agency.

(7) An individual is considered to have failed to make an effort to secure work if the department finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

b. Number of employer contacts. It is difficult to determine criteria in which earnestly and actively may be interpreted. Much depends on the estimate of employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunities might be totally unacceptable in another area of unlimited opportunities. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in the individual's characteristics, job prospects in the community, and other factors as the department deems necessary.

c. Union and professional employees. Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, individuals must also actively search for work; mere registration at a union or reporting to union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and additional work contacts must be made.

d. Week-to-week disqualification. Active search for work disqualifications are to be made on a week-to-week basis and are not open-end disqualifications.

e. Seniority rights. An individual who fails to exercise seniority rights to replace another employee with less seniority has the work search requirement waived during a period of regular benefits. This waiver does not apply to the individual who is receiving extended benefits or similar federal program benefits.

f. Search for work.

(1) The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant.

(2) The individual is referred to suitable work, when possible, to those employers who have outstanding requests with the department of workforce development for referrals. The individual must meet the minimum lawful requirements of the employer. The individual applies to and obtains the signatures of the employer so designated on the form provided, unless the employer refuses to sign the form. The individual must return the form to the department as directed. The individual's failure to obtain the signature of designated employers, who have not refused to sign the form, disqualifies the individual from future benefits until requalified by earning ten times the weekly benefit amount.

(3) The group assignment of individuals is used, to a certain extent, in determining which ones are required to make personal applications for work. Other factors, however, such as the condition of the local labor market, the duration of benefit payments, and a change in claimant characteristics, are also taken into consideration on a weekly basis.

(4) Individuals receiving partial benefits are exempt from making personal applications for work, in any week they have worked and received wages from their regular employer. Individuals involved in hiring hall practices must keep in weekly touch with the business agent of that union in which they maintain membership. All other individuals must make contacts with such frequency as the department considers advisable, after considering job prospects in the community, the condition of the labor market and any other factors which may have a bearing on the individual's reemployment. A sincere effort must be made to find a job. A contact made merely for the sake of complying with the law is not good enough.

g. Reverse referral. A reverse referral is defined as an employer hiring only through the department of workforce development and all individuals applying for employment with the employer are referred to the department. An individual may use the department as work contacts during a week with the employer's name and the workforce development employee's name listed as the individual contacted. The workforce development center must be contacted in person by the individual to utilize each reverse referral registration job contact.

h. Job search assistance. Job search assistance classes, including reemployment services, which are sponsored by the department of workforce development and attended by the individual during a week may be counted as one of the individual's work search contacts for that week.

This rule is intended to implement Iowa Code section 96.4(3).

[ARC 8711B, IAB 5/5/10, effective 6/9/10]

871—24.23(96) Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

24.23(1) An individual who is ill and presently not able to perform work due to illness.

24.23(2) An individual presently in the hospital is deemed not to meet the availability requirements of Iowa Code section 96.4(3) and benefits will be denied until a change in status and the individual can meet the eligibility requirements. Such individual must renew the claim at once if unemployed.

24.23(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable

expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

24.23(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

24.23(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

24.23(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

24.23(7) Where an individual devotes time and effort to becoming self-employed.

24.23(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

24.23(9) Reserved.

24.23(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

24.23(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

24.23(12) If a claimant is in jail or prison, such claimant is not available for work.

24.23(13) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(14) An individual is deemed not available for work because such individual cannot be contacted by the department for referral to possible employment.

24.23(15) Where a claimant has demanded a wage in excess of the wages most commonly paid in such claimant's locality for the suitable work the individual is seeking.

24.23(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

24.23(17) Work is unduly limited because the claimant is not willing to work the number of hours required to work in the claimant's occupation.

24.23(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

24.23(19) Availability for work is unduly limited because the claimant is not willing to accept work in such claimant's usual occupation and has failed to establish what other types of work that can and will be performed at the wages most commonly paid in the claimant's locality.

24.23(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

24.23(21) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(22) Where a claimant does not want to earn enough wages during the year to adversely affect receipt of federal old-age benefits (social security).

24.23(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

24.23(24) When a claimant is receiving from the Veterans Administration an educational assistance allowance under the War Orphans Educational Assistance Act of 1956, which is disqualifying under the Social Security Act.

24.23(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

24.23(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

24.23(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

24.23(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

24.23(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

24.23(30) Failure to attend the major portion of the scheduled workweek for department approved training.

24.23(31) Where the claimant spent the major portion of the period traveling while relocating.

24.23(32) The claimant is ineligible for benefits because no search for work was made during the period such claimant was on vacation unless the provisions of Iowa Code section 96.19(38) "c" are met.

24.23(33) Where the claimant left employment prior to a scheduled date of layoff when such claimant could have remained in employment during this period. No disqualification may be imposed in accordance with Iowa Code section 96.5(1) "g" for the period subsequent to the date of the scheduled layoff if such claimant is otherwise eligible. The claimant will be disqualified for the period between the last day worked and the date of the scheduled layoff because of voluntary unemployment.

24.23(34) Where the claimant is not able to work due to personal injury.

24.23(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

24.23(36) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(37) An individual shall be deemed to have failed to make an effort to secure work if the individual has followed a course of action designed to discourage prospective employers from hiring such individual in suitable work.

24.23(38) Rescinded IAB 8/6/03, effective 9/10/03.

24.23(39) Where the work search or the Eligibility Review Form has been deliberately falsified for the purpose of obtaining unemployment insurance benefits. The general guide for disqualifications for falsification of work search is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the representative because each case must be decided on its own merits. The administrative penalty recommended for falsification is:

a. First offense—six weeks penalty.

b. Second offense—nine weeks penalty.

c. Third offense—total disqualification for the remainder of the benefit year plus consideration of the possibility of filing fraud charges depending on the circumstances.

24.23(40) Reserved.

24.23(41) The claimant became temporarily unemployed, but was not available for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice to work, and that the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

This rule is intended to implement Public Law 96-499, Iowa Code sections 96.4(3), 96.5(1), 96.6(1), 96.19(38) "c" and 96.29.

871—24.24(96) Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.24(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening

and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

b. Upon notification of a job opening for a claimant, a representative of the department shall notify the claimant of the job referral. If the claimant fails to respond without good cause, the claimant shall be disqualified until such time as the claimant contacts the local workforce development center or unemployment insurance service center.

24.24(2) *Job within claimant's capabilities.*

a. The job offered must be within the claimant's physical capabilities and not require any undue physical skill or particular training which the claimant does not already possess. As the period of unemployment lengthens, work which might originally have been unsuitable may become suitable.

b. If the claimant, separated for lack of work, fails to accept work offered by the employer on recall or fails to apply for work when directed by a representative of the department, such failure shall constitute a refusal of suitable work. In such a situation said claimant shall be disqualified for failure to apply for or accept an offer to work until such time as the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.24(3) *Each case decided on its own merits.* Based upon the facts found by the department through investigation it shall then be determined whether the work was suitable and whether the claimant has good cause for refusal. Each case shall be determined on its own merits as established by the facts. A reason constituting good cause for refusal of suitable work may nevertheless disqualify such claimant as being not available for work.

24.24(4) *Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3).* Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

24.24(5) *Bumping rights to a job.* A claimant who fails to exercise seniority rights to bump a less senior employee is eligible for benefits and the provision pertaining to the search for work is waived during a period of regular unemployment insurance benefits. This waiver of the search for work does not apply to a claimant who is receiving extended benefits.

24.24(6) *Claimant physically unable to perform job.* A medical certification from a medical practitioner must be submitted to support the claimant's statement that work offered is not suitable because of the claimant's physical condition.

24.24(7) *Gainfully employed outside of area where job is offered.* Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

24.24(8) *Refusal disqualification jurisdiction.* Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa Code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

24.24(9) Reserved.

24.24(10) *Distance to new job.* Without a prior specific agreement between the employer and employee the employee's refusal to follow the employer to a distant new job site shall not be reason for a refusal disqualification.

24.24(11) *Bulletin board notice of work.* A bulletin board notice for employees to work during a plant shutdown shall not constitute an offer of work by the company. Such offer of work must be by personal contact to the employee.

24.24(12) *Claimant discourages prospective employers.* When a claimant willfully follows a course of action designed to discourage a prospective employer from hiring such claimant, the claimant shall be deemed to have refused suitable work as contemplated by the statute.

24.24(13) *Claimant moved to another state.* A claimant who moves to another state shall not be subject to disqualification for refusal to return to a previously held job.

24.24(14) *Employment offer from former employer.*

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3) “*b*” are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

24.24(15) *Suitable work.* In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

a. Any risk to the health, safety and morals of the individual.

b. The individual’s physical fitness.

c. Prior training.

d. Length of unemployment.

e. Prospects for securing local work by the individual.

f. The individual’s customary occupation.

g. Distance from the available work.

h. Whether the work offered is for wages equal to or above the federal or state minimum wage, whichever is higher.

i. Whether the work offered meets the percentage criteria established for suitable work which is determined by the number of weeks which have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.

j. Whether the position offered is due directly to a strike, lockout, or other labor dispute.

k. Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.

l. Whether the individual would be required to join or resign from a labor organization.

24.24(16) *Disabled accessibility to job.* A job offer shall not be suitable if a disabled individual has no access to a building or its facilities.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(2), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.11(1), 96.16, 96.19(38), and 96.29.

871—24.25(96) *Voluntary quit without good cause.* In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs “*a*” through “*i*,” and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(1) The claimant’s lack of transportation to the work site unless the employer had agreed to furnish transportation.

24.25(2) The claimant moved to a different locality.

24.25(3) The claimant left to seek other employment but did not secure employment.

24.25(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

24.25(5) Reserved.

- 24.25(6)** The claimant left as a result of an inability to work with other employees.
- 24.25(7)** The claimant failed to return to work upon the termination of a labor dispute.
- 24.25(8)** The claimant left to enter military service, either voluntarily or by conscription. While in military service such claimant shall be considered to be on leave from employment. It shall only be considered a voluntary quit issue when upon release from military service such claimant does not return to such claimant's employer to apply for employment within 90 days; provided, that such person shall give evidence to the employer of satisfactory completion of such military service and further provided that such person is still qualified to perform the duties of such position.
- 24.25(9)** Reserved.
- 24.25(10)** The claimant left employment to accompany the spouse to a new locality.
- 24.25(11)** The claimant left to get married.
- 24.25(12)** The claimant left without notice during a mutually agreed upon trial period of employment.
- 24.25(13)** The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.
- 24.25(14)** Reserved.
- 24.25(15)** Reserved.
- 24.25(16)** The claimant is deemed to have left if such claimant becomes incarcerated.
- 24.25(17)** The claimant left because of lack of child care.
- 24.25(18)** The claimant left because of a dislike of the shift worked.
- 24.25(19)** The claimant left to enter self-employment.
- 24.25(20)** The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.
- 24.25(21)** The claimant left because of dissatisfaction with the work environment.
- 24.25(22)** The claimant left because of a personality conflict with the supervisor.
- 24.25(23)** The claimant left voluntarily due to family responsibilities or serious family needs.
- 24.25(24)** The claimant left employment to accept retirement when such claimant could have continued working.
- 24.25(25)** The claimant left to take a vacation.
- 24.25(26)** The claimant left to go to school.
- 24.25(27)** The claimant left rather than perform the assigned work as instructed.
- 24.25(28)** The claimant left after being reprimanded.
- 24.25(29)** The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.
- 24.25(30)** The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.
- 24.25(31)** The claimant left work to keep from earning enough wages during the year to adversely affect claimant's receipt of federal old-age benefits (social security).
- 24.25(32)** The claimant left by refusing a transfer to another location when it was known at the time of hire that it was customary for employees to transfer as required by the job.
- 24.25(33)** The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.
- 24.25(34)** The claimant left because work was irregular due to weather conditions; however, this working condition was not unusual in claimant's type of employment.
- 24.25(35)** The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:
- a. Obtain the advice of a licensed and practicing physician;
 - b. Obtain certification of release for work from a licensed and practicing physician;
 - c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
 - d. Fully recover so that the claimant could perform all of the duties of the job.

24.25(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

24.25(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

24.25(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

24.25(39) Reserved.

24.25(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.6(2), 96.16, 96.19(6) "a," and 96.19(38).

871—24.26(96) Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

24.26(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

24.26(2) The claimant left due to unsafe working conditions.

24.26(3) The claimant left due to unlawful working conditions.

24.26(4) The claimant left due to intolerable or detrimental working conditions.

24.26(5) The claimant was laid off by the employer for being pregnant; however, availability must still be determined.

24.26(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

24.26(7) Reserved.

24.26(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or by marriage.

24.26(9) The claimant left employment upon the advice of a licensed and practicing physician for the sole purpose of taking a family member to a place having a different climate and subsequently returned to the claimant's regular employer and offered to perform services, but the claimant's regular or comparable work was not available. However, during the time the claimant was at a different climate the claimant shall be deemed to be unavailable for work notwithstanding that during the absence the claimant secured temporary employment. (Family is defined as: wife, husband, children, parents, grandparents, grandchildren, foster children, brothers, brothers-in-law, sisters, sisters-in-law, aunts, uncles or corresponding relatives of the classified employee's spouse or other relatives of the classified employee or spouse residing in the classified employee's immediate household.)

24.26(10) A claimant who underwent a mandatory retirement as of a certain age because of company policy or in accordance with an agreement between the employer and union.

24.26(11) The granting of a written release from employment by the employer at the employee's request is a mutual termination of employment and not a voluntary quit. However, this would constitute a period of voluntary unemployment by the employee and the employee would not meet the availability requirement of Iowa Code section 96.4(3).

24.26(12) When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

24.26(13) A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date designated by the employer. After the employer-designated date, the separation shall be considered a layoff.

24.26(14) Rescinded IAB 7/28/99, effective 9/1/99.

24.26(15) Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

24.26(16) The claimant left employment for a period not to exceed ten working days or such additional time as was allowed by the employer, for compelling personal reasons and prior to leaving claimant had informed the employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist or at the end of ten working days, whichever occurred first, the claimant returned to the employer and offered to perform services, but no work was available. However, during the time the claimant was away from work because of the continuance of this compelling personal reason, such claimant shall be deemed to be not available for work.

24.26(17) Reserved.

24.26(18) Reserved.

24.26(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

24.26(20) The claimant left work voluntarily rather than accept a transfer to another locality that would have caused a considerable personal hardship.

24.26(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

24.26(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

24.26(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

24.26(24) Reserved.

24.26(25) Temporary active military duty. A member of the national guard or organized military reserves of the armed forces of the United States ordered to temporary active duty for the purpose of military training or ordered on active state service, shall be entitled to a leave of absence during the period of such duty. The employer shall restore such person to the position held prior to such leave of absence, or employ such person in a similar position; provided, that such person shall give evidence to the employer of satisfactory completion of such training or duty, and further provided that such person is still qualified to perform the duties of such position.

24.26(26) Reserved.

24.26(27) Refusal to exercise bumping privilege. An individual who has left employment in lieu of exercising the right to bump or oust a fellow employee with less seniority shall be eligible for benefits.

24.26(28) The claimant left the transferring employer and accepted work with the acquiring employer at the time the employer acquired a clearly segregable and identifiable part of the transferring employer's business or enterprise. Under this condition, the balancing account shall immediately become chargeable for the benefits paid which are based on the wages paid by the transferring employer, provided the acquiring employer does not receive a partial successorship, and no disqualification shall be imposed if the claimant is otherwise eligible.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.16, and 96.19(38).

871—24.27(96) Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the

requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1) "g."

871—24.28(96) Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(1) The claimant shall be eligible for benefits even though having voluntarily left employment, if subsequent to leaving such employment, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

24.28(2) The claimant shall be eligible for benefits even though having been previously disqualified from benefits due to voluntary quit, if subsequent to the disqualification, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

24.28(3) Reserved.

24.28(4) Reserved.

24.28(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

24.28(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

24.28(7) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the administrative law judge and such decision has become final.

24.28(8) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the employment appeal board and such decision has become final.

This rule is intended to implement Iowa Code section 96.5(1) "a."

871—24.29(96) Business closing.

24.29(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

24.29(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

24.29(3) Verification of going out of business. When the unemployment insurance representative is informed by the individual or has knowledge of an employer going out of business at a factory, establishment, or other premises, the unemployment insurance representative completes a Form 60-0240,

Verification of Business Closing, and refers Form 60-0240 to the field audit section for assignment to a field auditor who verifies the business closing. A Form 62-2056, Review of Business Status for Closing Credits, is completed for each succeeding claimant who requests to be included in a redetermination for business closing credits. This form is added to the Form 60-0240 already in the department file for the appropriate pending investigation. Upon return of the Form 60-0240 from the field audit section, an unemployment insurance representative will issue the appropriate decisions to all claimants who requested that their unemployment insurance claim be redetermined as a business closing based on the results of the investigation.

871—24.30 Reserved.

871—24.31(96) Subsequent benefit year condition.

24.31(1) The claimant must have been paid benefits on a previous claim.

24.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least \$250, to fulfill the condition to be eligible for benefits on a new claim. Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

24.31(3) Insured work means insured work in any state.

24.31(4) Employment for a railroad under the Railroad Unemployment Insurance Act is insured work.

24.31(5) The amount equal to \$250 in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

24.31(6) Disqualification for lack of the \$250 in insured work shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling \$250 during or subsequent to the previous benefit year.

This rule is intended to implement Iowa Code section 96.4(4).

871—24.32(96) Discharge for misconduct.

24.32(1) Definition.

a. “Misconduct” is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker’s contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer’s interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer’s interests or of the employee’s duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

b. Any individual who has been discharged or suspended for misconduct connected with work is disqualified for benefits until the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual’s weekly benefit amount, provided the individual is otherwise eligible.

24.32(2) Reserved.

24.32(3) Gross misconduct.

a. For the purposes of these rules gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant’s employment, provided that such claimant is duly convicted thereof or has signed a statement admitting that such claimant has committed such act.

b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney's information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than \$500 or by imprisonment in the county jail for more than 30 days.

24.32(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

24.32(5) Trial period. A dismissal, because of being physically unable to do the work, being not capable of doing the work assigned, not meeting the employer's standards, or having been hired on a trial period of employment and not being able to do the work shall not be issues of misconduct.

24.32(6) False work application. When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

24.32(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

24.32(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

24.32(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Sheryl A. Cospers vs. Iowa Department of Job Service and Blue Cross of Iowa*.

871—24.33(96) Labor disputes.

24.33(1) Definition. As used in sections 96.5(3) "b"(1) and 96.5(4), the term labor dispute shall mean any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. An individual shall be disqualified for benefits if unemployment is due to a labor dispute.

24.33(2) Initial requirements—workforce development center.

a. As soon as the workforce development center has knowledge of a labor dispute or work stoppage in its administrative area, a report on Form 68-0535, Labor Dispute Report, shall be sent to the administrative office of the department of workforce development, attention: legal counsel, unemployment insurance services division, advising of the labor dispute or work stoppage.

b. If the labor dispute or work stoppage is terminated before the report is transmitted to the legal counsel, unemployment insurance services division, the information concerning the termination of the dispute and the date of the worker's return to work must also be entered on Form 68-0535.

c. When the labor dispute or work stoppage is terminated subsequent to the filing of the initial Form 68-0535, the legal counsel, unemployment insurance services division, shall be notified of the termination and return to work dates.

d. In those instances where an association represents a group of employers, include the names and addresses of the employers who are involved in the labor dispute in your report. Include also the name

and address of the association and the name of the association official who can furnish information about the work stoppage.

e. In taking initial claims in which there is a labor dispute, the workforce development center will complete an initial application for unemployment, Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, in the normal manner and will also include the union name and local union number.

f. If a claim notice is inadvertently returned by the employer to the workforce development center stating there is a labor dispute, the protest with the postmarked envelope attached shall be transmitted to the unemployment insurance service center.

g. If there is a work stoppage at the premises of an employer and it is a known fact that there has not been a union and that at present there is no union representation nor any attempt by a union to organize the workers of the plant, a statement must be taken from each individual claiming benefits.

h. Statements from each individual claiming benefits are not required on the labor dispute issue whenever there is union representation even though some of the individuals may not be union members.

i. Statements from each individual claiming benefits will be taken whenever the work stoppage is considered as a nonunion stoppage, meaning no union representation at the premises of the employer. In such cases, each individual's statement would become a part of the evidence submitted to the administrative office of the department of workforce development.

j. When there is a termination of the work stoppage, or if the issues have not been resolved and all workers returned to work, a report must be made to the legal counsel, unemployment insurance services division. The report will include the:

(1) Date on which an agreement was reached on the issues which caused the work stoppage.

(2) Date on which the workers returned to work, or a schedule as to how the workers will return to work.

k. The requirements in subrules 24.33(1) and 24.33(2) will cover the establishment and termination reports of the work stoppage and give the information necessary for the claims section to investigate the work stoppage when claims are filed on which a protest is made that the claimant is involved in a work stoppage.

l. During the period of a labor dispute, the claims involved in the labor dispute are processed as though no separation from the employer had occurred. Therefore, if an individual is still unemployed after the termination of the labor dispute, such individual has either been laid off, voluntarily left, or has been discharged from employment, and an additional claim must be taken if the individual continues in claim status.

m. When the employer or the union requests advice and information pertaining to what action should be taken in regard to the labor dispute, the workforce development center, at that time, should obtain all the information possible from the caller for inclusion in the labor dispute report to the unemployment insurance services division.

n. The employer will receive separate notices of claim filing for each claimant and shall make any protest in the appropriate section on the reverse side of Form 65-5317, Notice of Claim. The employer will receive a copy of the decision which may be appealed.

o. Form 65-5317, Notice of Claim Filing, will be used by the employer to report total unemployment due to strike, lockout or other labor dispute.

p. Employer shall use Form 60-0154, Notice of Separation or Refusal of Work, or the electronic version of that form, to report separations from work by employees for reasons of voluntary leaving, misconduct and job refusal. Form 60-0154 shall not be used by employers to report labor disputes because the document is not designed for that type of an employment separation or work refusal.

24.33(3) Initial determination.

a. In any case in which the payment or denial of benefits will be determined by the provisions of Iowa Code section 96.5(4), the representative of the unemployment insurance services division shall promptly review the evidence submitted, and such additional evidence as may be required, and shall make a decision upon the issues involved under that subsection.

b. The representative of the unemployment insurance services division shall promptly notify all interested parties to the claim of the decision. Said parties shall have ten days, from the date of mailing the decision to the last known address of record, to appeal the decision.

871—24.34(96) Labor dispute—policy.

24.34(1) Reserved.

24.34(2) Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

24.34(3) The relationship between employer and employee continues during the period of the labor dispute unless severed by the employer or employee.

a. If the relationship is severed by the employer, Iowa Code section 96.5(2) concerning discharge for misconduct shall govern.

b. If the relationship is severed by the employee, Iowa Code section 96.5(1) concerning voluntary leaving shall govern.

24.34(4) An individual who is unemployed because of a labor dispute and accepts employment elsewhere during the period of the labor dispute, must return to the previous employer when said labor dispute is settled or be subject to a determination on the issue of voluntary leaving.

24.34(5) Any individual unemployed because of failure or refusal to cross a picket line during a labor dispute shall be deemed to be involved in such labor dispute.

24.34(6) If an initial determination by the representative of the unemployment insurance services division of a labor dispute issue is appealed, the case shall be assigned to an administrative law judge, who shall receive the testimony of any party to the hearing and shall issue a decision on the labor dispute. Such decision may be appealed in conformity with these rules to the employment appeal board of the Iowa department of inspections and appeals.

24.34(7) An individual not involved in or participating in a labor dispute who failed to report to work because of a picket line shall be deemed to have voluntarily left employment. However, if the individual was subjected to hostility or violence in an attempt to cross a picket line, then the individual shall be deemed to have involuntarily left employment.

a. The division shall presume that any strike or lockout is being conducted in a lawful manner unless evidence to the contrary has been introduced. The division shall presume that any picketing is being conducted in a peaceful manner and that ingress or egress to the employer's facility is not being unlawfully impeded.

b. The division shall presume that where an injunction has been sought against actual or threatened violence, unlawful impedance of ingress or egress, or other unlawful conduct and such injunction shall have been denied on the basis that actual or threatened unlawful conduct has not been established that the picket line is peaceful unless evidence is introduced which establishes the violent nature of picket line activity.

c. If an injunction is obtained, the division shall presume the picket line is peaceful as of the date the injunction is issued unless evidence is introduced which proves the contrary proposition.

24.34(8) A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

a. The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout and the claimants shall not be disqualified because of a labor dispute.

b. A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute and the collective bargaining negotiations will directly affect the claimant's condition of employment, or

(2) The claimant or the recognized collective bargaining agent declines an offer from the employer to extend the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

24.34(9) To constitute a labor dispute there must be a stoppage of work at the plant or establishment. If there is no stoppage of work, the individual who leaves employment shall be deemed to have voluntarily quit.

24.34(10) When individuals, not as a group, union, or under union direction or suggestion but individually, left their work voluntarily in protest against the discharge of a fellow employee by their employer, in an unauthorized strike, it is held to be a voluntary quit.

24.34(11) Employment offered by an employer involved in a labor dispute or an employer who becomes involved in a labor dispute prior to acceptance by the claimant is considered:

a. Not suitable if the offer is made to a person who would be a new employee or a former employee who was laid off before the labor dispute and the vacancy was created by the strike, lockout, or other labor dispute.

b. Suitable if the offer was made to a former employee, who was previously laid off, provided the position offered is not vacant because of the strike, lockout, or other labor dispute and the provisions of section 96.5(4) shall apply.

c. Suitable if the offer is made to a new employee, who was not previously laid off by the same employer, and the vacancy was not created by a labor dispute.

24.34(12) Other employment accepted during periods of labor disputes does not free the claimant from the labor dispute section of the Iowa employment security law unless the claimant severs relationship with employer and obtains bona fide employment elsewhere.

This rule is intended to implement Iowa Code sections 96.5(3) and 96.5(4).

871—24.35(96) Date of submission and extension of time for payments and notices.

24.35(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States postal service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted by any means other than the United States postal service on the date it is received by the division.

24.35(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

24.35(3) Any notice, report form, determination, decision, or other document mailed by the division shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

871—24.36(96) Interstate benefits.

24.36(1) An interstate claimant is an individual who claims benefits under the unemployment insurance law of one or more liable states. Interstate benefits are payable under the plan approved by the national association of state workforce agencies to unemployed individuals absent from the state(s) in which wage credits were earned.

24.36(2) The division shall determine unemployment benefit claims for interstate claimants in accordance with applicable state law and rules and shall be in substantial compliance with those rules promulgated by the United States Department of Labor as published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650.

871—24.37(96) Payment of benefits to interstate claimants.

24.37(1) Section 96.20 of the employment security law of Iowa authorizes the department to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both. In conformity with this section, the department of workforce development prescribes:

a. *Applicability.* This regulation shall govern the department in its administrative cooperation with other states adopting a similar regulation for the payment of unemployment insurance benefits to interstate claimants.

b. *Definitions.* As used in this rule unless the context clearly requires otherwise:

(1) *"Interstate benefit payment plan."* This is the plan approved by the national association of state workforce agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(2) *"Interstate claimant."* This is an individual who claims benefits under the unemployment insurance law of one or more liable states. The term interstate claimant shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such a claimant in a specified area.

(3) *"State."* This includes the District of Columbia, Puerto Rico, the Virgin Islands and Canada.

(4) *"Agent state."* This means any state in which an individual files a claim for benefits from another state.

(5) *"Liable state."* A liable state is any state against which an individual files, from another state, a claim for benefits.

(6) *"Benefits."* This is the compensation payable to an individual, with respect to unemployment, under the employment security law of any state.

(7) *"Week of unemployment."* This is any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

c. *Registration for work.*

(1) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law, rules, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

d. *Benefit rights of interstate claimants.*

(1) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as

benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. The department will respect the prior adjudication of a liable state if the department is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.

(3) The benefit rights of interstate claimants established by this regulation shall apply only with respect to new claims filed on or after July 5, 1953.

e. Claim for benefits.

(1) Claims for benefits shall be filed by interstate claimants on uniform interstate claim forms or by using the procedures provided by the liable state and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(2) Rescinded IAB 8/6/03, effective 9/10/03.

f. Determination of claims.

(1) In connection with each claim filed by an interstate claimant, the agent state shall ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(2) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim unless the liable state has a procedure for taking out-of-state claims.

g. Appellate procedure.

(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified representative of the agent state.

24.37(2) Extended benefits interstate claims. When extended benefits are in effect and a claimant is filing for extended benefits, an eligible individual shall be limited to a maximum of two weeks of the extended benefit entitlement if the individual moves from this state, before or during an extended benefit period triggered by this state's "on" indicator, to another state in which an extended benefit period is not in effect.

This rule is intended to implement Iowa Code sections 96.6(1) and 96.29(3).

871—24.38(96) Combined wage claim.

24.38(1) Purpose of plan. The combined wage program is to enable an unemployed worker with covered employment or wages in more than one state to combine all such employment and wages in one state in order to qualify for benefits or to receive increased benefits.

a. Each state will cooperate with every other state by implementing these uniform combined wage procedures, rules and regulations. This includes the District of Columbia, U.S. Virgin Islands and the Commonwealth of Puerto Rico.

b. The benefit year, base period, qualifying wages, benefit rate, and duration of benefits under the unemployment compensation law of the paying state shall be the benefit year, base period, qualifying wages, benefit rate, and duration of benefits applicable to a combined wage claimant.

c. The rights of the individual under the combined wage claim plan shall be determined by the paying state after the combining of all wages available from the transferring states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department

shall respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

d. All other provisions of the unemployment compensation laws and rules of the state agency of the paying state shall be applied to the combined wage claim.

e. The state in which the claim is filed will be the paying state except in those cases in which the individual does not qualify after the transfer has been completed or if the claimant meets the definition of a commuter.

24.38(2) *Exception to combining wage credits.* Under the following circumstances, wages and employment are not transferable to the paying state:

a. Any employment and wages which have been transferred to any other paying state and not returned unused.

b. Wages that have been used by the transferring state as the basis of a monetary determination which established a benefit year.

c. Any employment and wages that have been canceled or are unavailable as a result of a transferring state determination made prior to the request for transfer.

24.38(3) The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done by cash or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

871—24.39(96) Department-approved training or retraining program. The intent of department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

24.39(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

a. The educational establishment at which the claimant would receive training.

b. The estimated time required for such training.

c. The occupation which the training is allowing the claimant to maintain or pursue.

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

24.39(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

871—24.40(96) Training extension benefits.

24.40(1) The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual's employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

24.40(2) The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

24.40(3) The course or courses must be for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and workforce centers.

a. High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

b. A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

c. A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

d. A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

e. A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

24.40(4) The individual must be enrolled in the training no later than the end of the benefit year which included the separation which made the individual eligible for training benefits or the week in which any federal benefit program based upon that benefit year is exhausted. Enrolled before the end of the benefit year means the individual has taken all steps available for entry into the training and has secured a reserved position in the training class. The individual has paid tuition or will pay tuition when the training starts. The training class may begin after the end of the benefit year. The application for training benefits must be received 30 days after the end of the benefit year or 30 days after federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

24.40(5) Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than one calendar year following the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the claim has expired or has been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Code Supplement section 96.3(5).
[ARC 8711B, IAB 5/5/10, effective 6/9/10]

871—24.41(96) Unemployed parents program (FIP/UP). Under Public Law 94-566, an unemployed parent who is eligible for both unemployment insurance and family investment program/unemployed parent (FIP/UP) shall be required to collect any unemployment insurance to which the individual is entitled before receiving any payments under the FIP/UP program.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.42(96) Retention of DHS referral form. When an unemployed parent presents the DHS referral Form PA-2138-5 to the workforce development center representative, the representative will take the form, sign it and complete an application for job placement assistance and/or employment insurance benefits.

24.42(1) The weekly benefit amount and maximum benefit amount of the claimant will be entered in job service comments on Form PA-2138-5. If the person is not monetarily eligible, that notation will be entered and the form mailed to human services.

24.42(2) A FIP/UP claimant may have the claim protested which can affect eligibility. Human services may request additional information on a subsequent Form PA-2138-5 concerning nonmonetary allowances or disqualifications on the claim, which will be furnished in the comments section of the form.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.43 and 24.44 Reserved.

871—24.45(96) Trade Act of 1974. Unemployment benefits payable to claimants under the Trade Act of 1974 (P.L. 93-618), shall be determined in accordance with the rules of the United States department of labor as published in the Code of Federal Regulations, chapter 29, parts 70 and 91. The Trade Act of 1974 is designed to pay unemployment benefits to workers who become unemployed due to foreign production of goods replacing domestic production.

871—24.46(96) Extended benefits.

24.46(1) Purpose. Extended benefits are benefits paid to an eligible individual during periods of high unemployment in a state under the Federal-State Extended Unemployment Compensation Act of 1970 and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615. The purpose of extended benefits is to extend the period of time for which an individual may receive benefits to allow the individual additional time to locate employment in recognition of the likelihood that employment is more difficult to find during periods of high unemployment in a state. The cost of extended benefits is shared between the federal and state governments.

24.46(2) Determination of when extended benefits are paid.

a. When paid. The state “on” indicator determines when extended benefits are paid in this state. A state “on” indicator is in effect during a week for which the rate of insured unemployment is 5 percent or greater and 120 percent or greater than the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

b. When not paid. The state “off” indicator determines when extended benefits are not paid in this state. A state “off” indicator is in effect during a week for which the rate of insured unemployment is less than 5 percent or less than 120 percent of the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

c. Period of payment. The extended benefit period is the period of time when extended benefits are paid in this state. An extended benefit period begins with the third week following a week for which there is a state “on” indicator in effect. An extended benefit period ends either with the completion of the thirteenth consecutive week beginning with the third week following a state “on” indicator, or later, with the completion of the third week following the first week for which there is a state “off” indicator. However, another extended benefit period shall not begin until the fourteenth week following the end of a previous extended benefit period.

d. Rate of insured unemployment. For the purposes of this subrule, the rate of insured unemployment means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits (excluding state plant closing benefits and benefits paid to federal civilian employees and ex-servicemembers under 5 U.S.C., chapter 85) in this state for weeks of unemployment with respect to the most recently completed 13-consecutive-week period by the average monthly insured employment for the first four of the six most recently completed calendar quarters immediately preceding the end of the 13-week period.

24.46(3) Announcement and notice of the beginning and ending of an extended benefit period.

a. Announcement by director. The beginning or ending date, whichever is appropriate, of an extended benefit period is announced by the director of the department of workforce development

through appropriate news media in this state. As the case may be, the announcement clearly describes the unemployed individuals who may become eligible or ineligible for extended benefits.

b. Notice to individuals. The Form 65-5309, Notice to Individuals, is used by the department to notify individuals of:

(1) The beginning of an extended benefit period. The notice of potential entitlement to extended benefits is sent to each individual who has exhausted all rights to regular benefits either prior to the beginning of, or during, the extended benefit period and who has a benefit year which will not end prior to the beginning of the extended benefit. The notice describes those actions required of the individual to claim the extended benefits.

(2) The ending of an extended benefit period. The notice of termination of entitlement to extended benefits is sent to each individual who is currently filing a claim for extended benefits of the ending of an extended benefit period. The notice describes the effect on the individual's right to extended benefits.

24.46(4) Amount and duration of extended benefits.

a. Weekly extended benefit amount. An individual's weekly extended benefit amount paid for a week of total unemployment during the individual's eligibility period is equal to the individual's weekly regular benefit amount paid for a week of total unemployment during the individual's applicable benefit year.

b. Duration of extended benefits. The total amount of extended benefits which an individual may receive during the individual's applicable benefit year is limited to 50 percent of the total amount of regular benefits, excluding any state plant closing benefits, received by the individual during that benefit year or 13 times the individual's weekly regular benefit amount paid for a week of total unemployment during that benefit year whichever is less; however, an individual is limited to two weeks of extended benefits if the individual files an interstate claim for extended benefits in a state in which an extended benefit period is not in effect.

c. Eligibility period. The eligibility period is the period of weeks in and after an individual's benefit year which begin in an extended benefit period when an individual is eligible to receive extended benefits; however, if a benefit year ends within an individual's eligibility period for extended benefits, the remaining extended benefits which the individual is entitled to receive in that portion of the eligibility period which extends beyond the end of the individual's benefit year, is reduced, but not below zero, by an amount arrived at by multiplying the number of weeks of Federal Trade Readjustment Act benefits received by the individual during the benefit year times the individual's weekly extended benefit amount.

d. Applicable benefit year. The applicable benefit year includes the period of one year from the date that an individual files a valid claim for benefits and any weeks following this one-year period in which the individual's eligibility period for extended benefits has not expired and the individual is not able to establish a second benefit year for regular benefits.

24.46(5) Eligibility requirements for extended benefits. Except where the results are inconsistent with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615, the provisions of this state's law which apply to claims for, and the payment of, regular benefits apply to claims for, and the payment of, extended benefits. An individual is eligible to receive extended benefits for a week of unemployment during the individual's eligibility period if the department finds that all of the following conditions are met:

a. The individual is an exhaustee. An exhaustee is an individual who has exhausted all entitlements to regular benefits under this or any other state law as well as federal civilian employee, railroad unemployment insurance, and ex-servicemember benefits.

An individual is also an exhaustee:

(1) If the individual may be entitled to additional regular benefits as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year.

(2) If the individual's benefit year has expired prior to the week, and the individual has no, or insufficient, wages on the basis of which to establish a new benefit year.

(3) If the individual has no right to benefits under other laws of the federal government, as specified in the regulations issued by the United States Secretary of Labor, or a contiguous country with which the United States has an agreement, but if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to the benefits, then the individual is an exhaustee.

b. The individual has one and one-half times the high quarter wages. An individual is required to have been paid wages for insured work during the individual's base period in an amount at least one and one-half times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.

c. The individual is required to actively seek, apply for or accept, suitable work. When an individual files an initial claim for extended benefits, the Form 60-0274, Notice for Individuals Claiming Extended Benefits, is used to determine the individual's prospects for obtaining work and to notify the individual that, beginning with the week following the week in which the individual is furnished this notice:

(1) If the individual's prospects for obtaining work within a reasonably short period are "good," the individual is required to actively seek, apply for or accept, suitable work in which, all other considerations being reasonably equal, the gross average weekly wage equals or exceeds 65 percent of the individual's average weekly wage from the highest earnings quarter of the individual's base period.

(2) If the individual's prospects for obtaining work within a reasonably short period are "not good," the individual is required to actively seek, apply for or accept, suitable work which is within the individual's capabilities to perform and which offers a gross average weekly wage which exceeds the individual's weekly extended benefit amount for a week of total unemployment plus any supplemental unemployment benefits; however, the individual is not required to actively seek, apply for or accept, work which offers a gross average weekly wage less than the federal or state minimum wage whichever is higher.

(3) For the purposes of this paragraph, reasonably short period means four weeks. If an individual whose prospects for obtaining work are "good" has not secured work within four weeks following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, then the individual is notified on Form 65-5309, Notice to Individuals, that the individual's prospects for obtaining work are now considered as "not good."

(4) For the purposes of this paragraph, actively seeking work means that, for each week following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, the individual is required to provide tangible evidence on the weekly claim for benefits that the individual is making a systematic and sustained effort to search for suitable work.

(5) If prospects are determined to be "not good," an individual shall not be disqualified for failing to apply for or accept work which is not offered in writing or is not listed with this state's employment service.

d. The individual is required to requalify following a disqualification for failure to actively seek, apply for or accept, suitable work. To become eligible for extended benefits following a disqualification for failure to actively seek, apply for or accept, suitable work, the individual is required to be employed in insured work for four weeks, which need not be consecutive, and earn four times the individual's weekly extended benefit amount.

871—24.47(96) Disaster benefits. Benefits under the Disaster Relief Act of 1974. Unemployment benefits payable under Public Law 93-288, the Disaster Relief Act of 1974, will be determined in accordance with the rules of the United States Department of Labor and published in the Code of Federal Regulations, Chapter 20, Parts 625 and 650, and Chapter 32, Part 1710.16. These benefits are payable to claimants who are unemployed due to natural disasters. A claimant who is eligible for regular unemployment benefits shall not be eligible for disaster unemployment assistance.

871—24.48(96) UCFE claims. Benefits under the Federal Employer's Compensation Act. Unemployment benefits for civilian federal employees shall be determined in accordance with the applicable state law and rules as well as the rules of the United States Department of Labor and

published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650. These benefits are payable under the Federal Employer's Compensation Act, 5 U.S.C. 8101-8150, 8191-8193, and are based on wages earned by civilians in covered federal employment.

871—24.49(96) UCX claims. Benefits under the Ex-servicemember's Unemployment Compensation Act.

24.49(1) *Applicable law.* Unemployment benefits for ex-military personnel shall, in addition to being determined in accordance with applicable Iowa law and rules, be determined in substantial compliance with the rules and guidelines of the United States Department of Labor and published in the Code of Federal Regulations, Chapter 20, Parts 614 and 650.

24.49(2) *When payable.* These benefits are payable under the Ex-servicemember's Unemployment Compensation Act of 1958, 5 U.S.C. 8850. They allow unemployment compensation to be based on wages earned while on active military duty.

871—24.50(96) Temporary extended unemployment compensation.

24.50(1) to 24.50(5) Rescinded IAB 8/6/03, effective 9/10/03.

24.50(6) Overpayments will be offset up to and including 50 percent of the temporary extended unemployment compensation benefit payment.

24.50(7) Waiver of overpayments.

a. Individuals who have received amounts of temporary extended unemployment compensation to which they were not entitled shall be required to repay the amounts of such temporary extended unemployment compensation except that the state repayment may be waived if the workforce development department determines that:

(1) The payment of such temporary extended unemployment compensation was without fault on the part of the individual; and

(2) Such repayment would be contrary to equity and good conscience.

b. In determining whether fault exists, the following factors shall be considered:

(1) Whether a material statement or representation was made by the individual in connection with the application for temporary extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the statement or representation was inaccurate.

(2) Whether the individual failed or caused another to fail to disclose a material fact in connection with an application for temporary extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the fact was material.

(3) Whether the individual knew or could have been expected to know that the individual was not entitled to the temporary extended unemployment compensation payment.

(4) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the individual or of which the individual had knowledge and which was erroneous or inaccurate or otherwise wrong.

c. In determining whether equity and good conscience exist, the following factors shall be considered:

(1) Whether the overpayment was the result of a decision on appeal;

(2) Whether the state agency had given notice to the individual that the individual may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and

(3) Whether recovery of the overpayment will cause financial hardship to the individual.

This rule is intended to implement Iowa Code sections 96.11 and 96.29.

871—24.51(96) School definitions.

24.51(1) Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department

of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

24.51(2) Educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

24.51(3) Employment definitions.

a. Professional employees including educational service agency employees means persons who are employed in an instructional, research or principal administrative capacity as explained below:

(1) Instructional: Services performed for an educational institution which consist of teaching in formal classroom and seminar situations, tutoring, or lecturing in the activity of imparting knowledge; or of services which consist of directing or supervising the instructional activities of others; or services which consist of counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(2) Research: Services performed for an educational institution which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. The work performed is in a predominantly intellectual field or artistic endeavor which is varied in character and requires the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

(3) Principal administrative: Services performed for an educational institution which consist of managing the educational institution or one of its major divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the educational institutions or one of its major divisions or departments. Work and activities are performed under general direction and broad objectives and missions, with the authority to determine goals and the techniques and methods of operations of the educational institution or one of its major divisions or departments. The duties performed by the individual rather than the title held should determine whether the prohibition applies. Neither providing a title nor withholding it should be controlling in itself.

b. Nonprofessional employees including educational service agency employees means persons who perform services in any capacity for an educational institution other than in an instructional, research, or principal administrative capacity.

24.51(4) Holiday recess. See vacation period subrule 24.51(8).

24.51(5) Institution of higher education means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

24.51(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

24.51(7) School duration period.

a. Academic year is defined as that period of time that school personnel are obligated by contract to render services to the educational institution during the school year.

b. Term is defined as either of the two periods into which the yearly period of instruction is normally divided, commonly referred to as a semester. If the educational institution operates on a quarterly basis, then term shall mean the same as a quarter period. If the educational institution operates

on a trimester basis, then term shall mean the same as a trimester period or any other division in a school year during which instruction is regularly given to students.

c. Twelve-month employment. School employees that perform services for educational institutions 12 months of a calendar year or years.

24.51(8) Vacation period or holiday recess. In Iowa Code section 96.4(5), the term “established and customary” vacation period or holiday recess involved in this provision includes those scheduled at Christmas and in the spring, when those vacation periods or recesses occur within a term.

24.51(9) Between terms or academic years denial means any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual’s contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such terms or academic years.

871—24.52(96) Determining eligibility of school claims after employer protest.

24.52(1) Claim filed. When a claim has been filed by an employee of an educational institution, the department shall send a Form 65-5317, Notice of Claim, to the educational institution and such educational institution wishing to protest such a claim shall return such notice to the department and shall include on it a statement as to whether or not the individual who filed a claim had been given reasonable assurance for the ensuing academic year or term. The statement should include the date and method of such notification. A copy of the notification may be attached to Form 65-5317, Notice of Claim.

24.52(2) If the statement from the school indicates that there is no reasonable assurance of the employee returning to work for the ensuing academic year or term, the claim will be allowed, subject to meeting all other eligibility requirements. However, if an educational institution submits a statement or the claimant furnishes information concerning a reasonable assurance of school employment, the employee is subject to a denial of benefits. If the fact-finding should result in a disqualification, the effective starting date of the disqualification shall be determined as follows:

a. No earlier than the effective starting date of the claim as it would serve no useful purpose. If the job offer was prior to the beginning date of the claim and the claimant refuses the offer, the issue shall still be adjudicated since the issue is determined as a voluntary quit rather than a job refusal pursuant to subrules 24.25(37) and 24.26(19).

b. The Sunday of the week in which the job was offered under any of the following conditions:

- (1) The employer protest was made within ten-day protest period.
- (2) The department was notified within ten days of the date of the offer.
- (3) The claimant was in a reporting status on a claim for unemployment insurance at the time the offer was made and the claimant failed to notify the department of the offer.

c. The Sunday of the week in which the claimant or employer notified this department of the offer unless the offer was prior to the week that the department was notified of the offer and the claimant was in reporting status on a claim for unemployment insurance at that time. In this situation, the effective starting date of disqualification shall be the Sunday of the week in which the job offer was made.

d. The Sunday of the week in which the employer notified the department of the offer to the claimant. A refusal to accept the offer of employment shall be adjudicated under the voluntary quit section of the law pursuant to subrules 24.25(37), 24.26(19) and 24.52(11).

24.52(3) Professional employee. Unemployment insurance payments which are based on school employment shall not be paid to a professional employee for any week of unemployment which begins between two successive academic years, between regular terms, or during a period of paid sabbatical leave if the individual has a contract or reasonable assurance to perform services in any such capacity for any educational institution for both such academic years or both such terms. However, unemployment insurance payments can be made which are based on non-school-related wage credits pursuant to subrule 24.52(6).

24.52(4) Nonprofessional employee.

a. Unemployment insurance payments which are based on school employment shall not be paid to a nonprofessional employee for any week of unemployment which begins between two successive academic years or terms if the individual has performed service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for the second academic year or term. However, unemployment insurance payments can be made based on non-school-related wage credits pursuant to subrule 24.52(6).

b. The nonprofessional employee may qualify for retroactive unemployment insurance payments if the school employment fails to materialize in the following term or year and the individual has filed weekly or biweekly claims on a current basis during the between terms denial period pursuant to subrule 24.2(1), paragraph “*e.*”

24.52(5) Twelve-month, year-round employee. An educational institution employee who performs services on a 12-month, year-round basis whose employment is terminated through layoff or reduction in force prior to the completion of the 12-month period, is eligible for benefits and shall not be disqualified under the provisions of Iowa Code section 96.4(5). An offer of reemployment to the 12-month, year-round employee for the succeeding academic year or term shall be adjudicated under Iowa Code section 96.5(3), regarding offers of suitable work and no disqualification may be imposed prior to the week in which the employment is scheduled to commence.

24.52(6) Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

24.52(7) Head start programs are considered educational in nature; however, the employing unit as a whole must have as its primary function the education of students. When the employing unit is operated primarily for educational purposes then the between terms denial established by Iowa Code section 96.4(5) will apply between two successive academic years or terms and will apply for holiday and vacation periods to deny benefits to school personnel.

a. A nonprofit organization which has as its primary function civic, philanthropic or public assistance purposes does not meet the definition of an educational institution. Community action programs which have a head start school as one component are not an educational institution employer and the between terms denial does not apply.

b. A head start program which is an integral part of a public school system conducted by a board of education establishes an employing unit whose primary function is educational; therefore, the between terms denial would apply.

24.52(8) Wages earned and payment deferred. Many school employees receive remuneration from their school employers on a 12-month basis for the 9-month period worked. Deductions from unemployment insurance payments are on a “when earned” basis rather than on a “when paid” basis. Deferred wages currently paid which are based on earnings from a prior period are not deductible on a current week claimed pursuant to Iowa Code section 96.19(9) “*b*” and paragraph 24.13(2) “*o.*”

24.52(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

24.52(10) Substitute teachers.

a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

b. Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subrule 24.22(2) “i”(1).

c. Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not considered to be unemployed persons pursuant to subrule 24.22(2) “i”(3).

d. However, substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subrule 24.22(2) “i”(3) if they are:

- (1) Able and available for work.
- (2) Making an earnest and active search for work each week.
- (3) Placing no restrictions on their employability.
- (4) Show attachment to the labor market. Have wages other than on-call wages with an educational institution in the base period.

e. A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.26(19).

24.52(11) Declination of new contract or reasonable assurance.

a. The school employee who is not employed on a 12-month, year-round basis and who fails or refuses to accept a contract or reasonable assurance of employment in the succeeding academic term or year shall have the separation adjudicated under the voluntary quit provision of Iowa Code section 96.5(1) pursuant to subrule 24.25(37).

b. This subrule also applies to substitute teachers who fail or refuse to accept a contract or reasonable assurance of employment in the succeeding academic term or year pursuant to subrules 24.26(19) and 24.26(22).

24.52(12) Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met. However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year shall be disqualified under the “between terms denial” provision.

24.52(13) Continuing supplemental (part-time) school employment after loss of nonschool employment. All employers, including employers of part-time workers are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account, whether contributory or reimbursable, pursuant to Iowa Code section 96.7(3) “a”(2).

871—24.53(96) Noncovered school-related employment.

24.53(1) Pursuant to rule 871—23.20(96), wages earned by a student who performs services in the employ of a school at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) cannot be used as wage credits for claim or benefit purposes. However, wages earned by an individual who is a full-time employee for a school whose academic pursuit is incidental to the full-time employment may be used for claim and benefit purposes.

24.53(2) Pursuant to rule 871—23.20(96), wages earned by the spouse of such a student in employment with the educational institution attended by the student cannot be used for benefit purposes if the employee-spouse is told prior to commencing the employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

24.53(3) Pursuant to rule 871—23.21(96), wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit at such institution that combines academic instruction with work experience are normally excluded from the definition of employment. Provided, however, that work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly

scheduled vacation and for which such student receives no academic credit shall be considered as insured employment.

871—24.54(96) Church school coverage. Schools affiliated with a church are exempt from coverage but may volunteer coverage by request to the department of workforce development. Schools not affiliated with a church are covered employers with covered employment. Church school coverage is defined pursuant to rule 871—23.27(96).

871—24.55 and 24.56 Reserved.

871—24.57(96) Athletes—disqualifications. “Athletes” as used in Iowa Code section 96.5(9), is intended to apply to professional athletes. A professional athlete is an individual whose occupation is participating in athletic or sporting events for wages. A semiprofessional athlete is within the scope of Iowa Code section 96.5(9), if such sports services are compensation in covered wages. Auxiliary personnel, such as coaches, trainers, etc., are not considered professional athletes and are not within the scope of Iowa Code section 96.5(9).

24.57(1) As used in Iowa Code section 96.5(9), “any services, substantially all of which consist of participating in sports or athletic events” means all services performed by an individual in any subject employment during the individual’s base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

24.57(2) As used in Iowa Code section 96.5(9), “participating in sports or athletic events” means any services performed in an athletic activity by an individual as:

- a. A regular player or team member.
- b. An alternate player or team member.
- c. An individual in training to become a regular player or team member.
- d. An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

24.57(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the department after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

24.57(4) For the purposes of Iowa Code section 96.5(9), a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

- a. The individual has an express or implied multiyear contract which extends into the subsequent sport season, or,
- b. The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and
- c. There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season, and
- d. The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

24.57(5) Benefits which will be paid with respect to weeks of unemployment during a sports season shall be based on all wage credits of the individual. Wage credits would include those earned in sports as well as in other employment covered by an employment security law. With respect to weeks of unemployment that begin during a period between sports seasons (or similar periods) no benefits are payable on the basis of any athletic or nonathletic wages if substantially all (see subrule 24.57(1)) of the services performed by the individual during the base period were in sports or athletic events.

24.57(6) When a professional athlete is denied benefits because there is a reasonable assurance that the individual will again perform services as a professional athlete in the next ensuing season but the assurance fails to materialize, the denial of benefits is effective until the date established that the assurance

is ineffective. Following the ineffective date, benefits can be paid if the individual is otherwise eligible. If an assurance given to an individual is found to be not a bona fide assurance, benefits are payable if the individual is otherwise eligible.

24.57(7) Benefits will be paid with respect to weeks of unemployment between sports seasons (or similar periods) based on wage credits of the individual, paid in other employment covered by employment security law except those in sports or athletic events or training, or preparing to so participate.

24.57(8) Athletes—denial of benefits. An individual (athlete) will be denied benefits between seasons based on services performed by such individual (athlete).

This rule is intended to implement Iowa Code section 96.5(9).

871—24.58(96) Voluntary shared work. The voluntary shared work program provides that employers facing a temporary shortfall may reduce the work hours of employees in an affected unit and those employees will receive a portion of their regular unemployment insurance benefits. The program is designed to reduce unemployment and stabilize the workforce by allowing certain employees to collect unemployment insurance benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages. Additional information may be obtained by contacting the voluntary shared work coordinator. The employer may apply to participate in the program by completing a shared work plan application which must be approved by the department. The employer shall submit the plan to the department 30 days prior to the proposed implementation date. The employer will administer the program in cooperation with the department. Participating employees will complete the employee information form and claim for benefits and return them to the employer who will submit them to the department. Administrative penalties in force during the duration of the plan will make an employee ineligible for the program. Child support obligations will be deducted and unemployment insurance overpayments will be offset as they are for regular unemployment insurance benefits.

24.58(1) A shared work plan will last no longer than 52 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks.

24.58(2) Employment is considered seasonal if the production or service provided by the employment is curtailed by at least 45 percent or ceases for a four-month or longer period on an annual basis due to climatic conditions.

24.58(3) A plan which has been approved may be modified at the discretion of the department. An employer seeking modification of an approved plan must demonstrate good cause as to why the modification is necessary and must demonstrate that the factors necessitating the modification were not foreseeable at the time the plan was submitted.

24.58(4) Approval of a plan may be denied or revoked at the discretion of the department if the plan and its actual operation do not meet all the requirements stated in Iowa Code section 96.40 including, but not limited to, the providing of false or misleading information to the department, unequal treatment of any employee in the affected unit, a reduction in fringe benefits resulting from participation in the program, or failure by the employer to monitor and administer the program.

24.58(5) The employer may file in writing an appeal of a denial of approval of a plan or revocation of approval by the department within 30 days from the date the decision is issued. The employer's appeal will be forwarded to the appeals section so that a hearing may be scheduled before an administrative law judge.

24.58(6) If the employer provides as part of the plan a training program that will provide a substantive increase in the workplace and employability skills of the employee so as to reduce the potential for future periods of unemployment, the department shall consider the employee to be attending department-approved training and shall relieve the employer of charges for benefits paid to the individual attending training under the plan.

This rule is intended to implement 2009 Iowa Code Supplement section 96.40 as amended by 2010 Iowa Acts, Senate File 2279.

[ARC 8711B, IAB 5/5/10, effective 6/9/10]

871—24.59(96) Child support intercept. An individual who owes a child support obligation and who has been determined to be eligible for unemployment insurance benefits under Iowa Code chapter 96, shall have this information furnished to the child support recovery unit. The department of workforce development shall deduct and withhold from benefit payments the amount which is specified by the child support recovery unit. The term “benefits” for child support intercept purposes shall be defined as meaning any compensation payable under Iowa Code chapter 96, including any amounts payable pursuant to any workforce development agreement under any federal law administered by the department.

24.59(1) Information furnished to child support recovery unit. The department of workforce development shall furnish information to the child support recovery unit concerning all new claims filed that are monetarily eligible for benefits under any state or federal program administered by the department.

24.59(2) Action taken by child support recovery unit. The child support recovery unit shall contact the claimant so that an opportunity is afforded to the claimant for a signed agreement to have a specified amount deducted and withheld from the claimant’s benefits. The child support recovery unit shall submit a copy of the signed agreement to the department of workforce development and the department shall deduct and withhold the amount specified in the agreement.

24.59(3) Garnishments. Failure of the child support recovery unit to reach an agreement with the claimant for a specified amount to be deducted may result in the child support recovery unit initiating a garnishment action through legal process under Iowa Code chapter 642. The department of workforce development shall deduct and withhold from the claimant’s benefits the amount specified. Notwithstanding section 96.15, benefits under chapter 96 are not exempt from garnishment, attachment, or execution if garnished by the child support recovery unit as established in Iowa Code section 252B.2, to satisfy the child support obligation of an individual who is eligible under this chapter. Child support obligation is defined as only those obligations which are enforced pursuant to the plan as described in Section 454 of the Social Security Act under Part D of Title IV entitled “State Plan for Child Support.”

24.59(4) Treatment of amount deducted for child support. Any amount deducted from unemployment insurance payments for child support obligations shall be treated as if it were paid to the individual as benefits under Iowa Code chapter 96.

24.59(5) Processing of payments. The child support recovery unit shall furnish to the department the name and address of the designated public official to whom the amount deducted must be remitted. After the deduction, the remaining balance shall be credited to the claimant.

24.59(6) Notice to claimant. The department shall mail a notice to the claimant which explains the beginning date and the amount of the deduction from the claimant’s weekly benefit amount which satisfies the individual’s child support obligation to the child support recovery unit. This notice will be issued when the first deduction is made from the benefit payment. The notice shall explain the authority for the deduction and include the claimant’s right of appeal.

24.59(7) Appeal rights on the child support deduction.

a. Any appeal on a child support deduction is limited to either the validity of workforce development’s authority to make the deduction or the accuracy of the amount deducted.

b. The claimant will be advised to seek remedy either through the child support recovery unit or through the court system whenever the question of reasonableness or fairness of the deducted amount is raised in terms of ability to pay.

c. The department does not have the authority under Iowa Code chapter 96 to change the amount of the deduction as specified by garnishment or voluntary agreement or to adjudicate any appeal from garnishment or voluntary agreement.

This rule is intended to implement Iowa Code sections 96.3 and 96.20.

871—24.60(96) Alien. Any person who is not a citizen or a national of the United States. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States. An alien is a person owing allegiance to another country or government.

24.60(1) Section 3304(a)(14) of the Federal Unemployment Tax Act requires that the state law deny benefits which are based on services performed by an alien who has not been legally admitted to the country as a permanent resident. This provision does not deny benefits on the basis of services performed by noncitizens. It applies to services performed by individuals who do not have legal status of permanent residence in this country.

24.60(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

a. If the response is “yes,” no further proof is necessary and the claimant’s records are to be marked accordingly.

b. If the answer is “no,” the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual’s status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94 “Arrival and Departure Record” and the Forms I-151 and I-551 “Alien Registration Receipt Card.” These forms are issued by the Immigration and Naturalization Service and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual’s alien registration number at the time of claim filing.

c. Any or all documents presented to the department by an alien shall be subject to verification with the immigration and naturalization service. The citizenship question shall be included on the initial claim form so that the response will be subject to the provisions of rule 24.56(96), administrative penalties, and rule 871—25.10(96), prosecution on overpayments.

d. Rescinded IAB 8/6/03, effective 9/10/03.

24.60(3) Disqualification of aliens.

a. Aliens shall be disqualified for services performed unless such alien is an individual who:

- (1) Was lawfully admitted for permanent residence at the time such services were performed or;
- (2) Was lawfully present in this country for purpose of performing such service or;
- (3) Was permanently residing in this country under color of law at the time such services were performed.

b. Color of law permanent residence is defined as:

(1) An alien admitted as a refugee under Section 207 of the Immigration and Nationality Act, 8 U.S.C. 1157, in effect after March 31, 1980;

(2) An alien granted asylum by the attorney general of the United States under Section 208 of the Immigration and Nationality Act, 8 U.S.C. 1158;

(3) An alien granted a parole into the United States for an indefinite period under Section 212(d)(5)(B) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5)(B);

(4) Reserved.

(5) An alien who entered the United States prior to June 30, 1948, and who is eligible for lawful permanent residence pursuant to Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259; or

(6) An alien who has been formally granted deferred action or nonpriority status by the immigration and naturalization service.

24.60(4) Certain nonimmigrants may perform service in this country. All nonimmigrant aliens 18 years and older are required by law to carry alien registration card Form I-94. The immigration and naturalization service places a symbol on the Form I-94 which indicates eligibility to perform service in this country.

a. Nonimmigrant aliens who are allowed to perform certain types of service are:

Class of worker	Symbol on I-94	Employment Permitted
(1) Ambassador, Consular officers and their immediate families	A-1	May accept employment with permission from the Department of State and the Immigration Service. I-94 will be stamped: "Employment Authorized."
(2) Other foreign government officials and their immediate families.	A-2	Same as for A-1.
(3) Treaty trader, spouse and children Treaty investor, spouse and children	E-1 E-2	Admitted to work for a specific employer or as a sole proprietorship or partnership.
(4) Student	F-1 M-1	May accept employment of up to 20 hours per week with permission from the Immigration Service. I-94 will be stamped: "Employment Authorized." Employment should not displace a USC or permanent resident alien.
(5) Representatives of foreign governments to international organization such as the U.N.	G-1 G-2 G-3 G-4 G-5	May accept employment if approved by the Department of State and the Immigration Service. I-94 will be stamped: "Employment Authorized."
(6) Temporary worker of distinguished merit and ability	H-1	Are admitted to work on a petition of an employer. Can only work for that employer unless permission is granted by the Immigration Service to change employers.
(7) Temporary workers performing services unavailable in the U.S.	H-2	Same as for H-1.
(8) Trainee	H-3	Same as for H-1.
(9) Exchange visitor Spouse and children	J-1 J-2	May be admitted to work in a specific program or may be granted permission to work after entry. I-94 will be stamped: "Employment Authorized."
(10) Fiancé or fiancée of USC entering solely to conclude valid marriage Child of a K-1	K-1 K-2	May accept employment upon approval of the Immigration Service. I-94 will be stamped: "Employment Authorized."
(11) Intra company transferee entering to continue employment with same employer. Dependents.	L-1 L-2	Admitted upon petition by an employer. May only work for that employer. May accept employment if approved by the Immigration Service. I-94 will be stamped: "Employment Authorized."
(12) NATO representatives	NATO-1 NATO-2 NATO-3 NATO-4 NATO-5 NATO-6 NATO-7	Dependents may accept employment with approval of the Immigration Service. I-94 will be stamped: "Employment Authorized."

b. Immigrant aliens who are not allowed to perform services are:

Class of worker	Symbol on I-94	Employment Status
(1) Attendant, servant or personal employee of an A-1 or A-2	A-3	May not accept employment.
(2) Temporary visitor for business	B-1	May not accept employment.
(3) Temporary visitor for pleasure	B-2	May not accept employment.
(4) Alien in transit	C-1 C-2 C-3	May not accept employment.
(5) Transit without a visa	TRWOV	May not accept employment.
(6) Seaman	D-1 D-2	May not accept employment.
(7) Dependent of student	F-2 M-2	May not accept employment.
(8) Spouse or child of an H-1, H-2 or H-3	H-4	May not accept employment.
(9) Representative of foreign information media including spouse and children	I	May not accept employment.

This rule is intended to implement Iowa Code section 96.5(10).

- [Filed 12/29/55; amended 12/29/58, 6/23/59, 12/4/59, 11/22/61, 4/21/72]
 [Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
 [Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
 [Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
 [Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
 [Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
 [Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
 [Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
 [Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
 [Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
 [Filed emergency 11/29/79—published 12/26/79, effective 11/29/79]
 [Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
 [Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
 [Filed 12/4/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
 [Filed 4/10/81, Notice 2/18/81—published 4/29/81, effective 6/4/81]
 [Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
 [Filed 11/6/81, Notice 7/8/81—published 11/25/81, effective 12/30/81]
 [Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]
 [Filed 8/26/82, Notice 7/21/82—published 9/15/82, effective 10/20/82]
 [Filed emergency 9/10/82—published 9/29/82, effective 9/10/82]¹
 [Filed 10/8/82, Notice 8/18/82—published 10/27/82, effective 12/2/82]
 [Filed emergency 10/25/82—published 11/24/82, effective 10/25/82]
 [Filed 1/27/83, Notice 10/13/82—published 2/16/83, effective 3/23/83]
 [Filed 3/11/83, Notices 11/25/81, 5/26/82—published 3/30/83, effective 5/5/83]
 [Filed 3/28/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]
 [Filed emergency 3/31/83—published 4/27/83, effective 4/1/83]
 [Filed emergency 6/27/83—published 7/20/83, effective 7/1/83]
 [Filed emergency 8/3/83—published 8/31/83, effective 8/3/83]
 [Filed 2/10/84, Notice 8/31/83—published 2/29/84, effective 4/5/84]
 [Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
 [Filed 4/27/84, Notice 2/29/84—published 5/23/84, effective 6/28/84]
 [Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]
 [Filed 8/24/84, Notice 6/20/84—published 9/12/84, effective 10/17/84]

- [Filed 1/11/85, Notice 8/29/84—published 1/30/85, effective 3/6/85]
- [Filed 1/14/85, Notice 10/24/84—published 1/30/85, effective 3/6/85]
- [Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
- [Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]
- [Filed emergency 6/13/86—published 7/2/86, effective 7/1/86]
- [Filed emergency 9/5/86—published 9/24/86, effective 9/5/86]
- [Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
- [Filed emergency 10/31/86—published 11/19/86, effective 10/31/86]
- [Filed 11/7/86, Notice 8/13/86—published 12/3/86, effective 1/7/87]
- [Filed 12/8/86, Notice 10/22/86—published 12/31/86, effective 2/4/87]
- [Filed 1/13/87, Notice 11/19/86—published 1/28/87, effective 3/4/87]
- [Filed emergency 6/12/87—published 7/1/87, effective 7/1/87]
- [Filed 6/12/87, Notice 4/8/87—published 7/1/87, effective 8/5/87]
- [Filed 6/12/87, Notice 5/6/87—published 7/1/87, effective 8/5/87]
- [Filed 7/24/87, Notice 6/3/87—published 8/12/87, effective 9/16/87]
- [Filed 9/4/87, Notice 7/1/87—published 9/23/87, effective 10/28/87]
- [Filed emergency 10/30/87—published 11/18/87, effective 12/1/87]
- [Filed 1/8/88, Notice 11/18/87—published 1/27/88, effective 3/2/88]
- [Filed 2/19/88, Notice 12/30/87—published 3/9/88, effective 4/13/88]
- [Filed 4/1/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
- [Filed 6/24/88, Notice 4/20/88—published 7/13/88, effective 8/17/88]
- [Filed 8/5/88, Notice 6/29/88—published 8/24/88, effective 9/28/88]
- [Filed 11/14/88, Notices 8/24/88, 10/19/88—published 11/30/88, effective 1/4/89]
- [Filed 11/23/88, Notice 10/19/88—published 12/14/88, effective 1/18/89]
- [Filed 2/3/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]
- [Filed 3/31/89, Notice 2/22/89—published 4/19/89, effective 5/24/89]
- [Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
- [Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
- [Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
- [Filed 6/22/90, Notice 5/16/90—published 7/11/90, effective 8/15/90]
- [Filed 9/28/90, Notice 8/22/90—published 10/17/90, effective 11/21/90]
- [Filed 12/21/90, Notice 11/14/90—published 1/9/91, effective 2/13/91]
- [Filed 7/30/91, Notice 6/12/91—published 8/21/91, effective 9/25/91]
- [Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
- [Filed 5/22/92, Notice 4/15/92—published 6/10/92, effective 7/15/92]
- [Filed emergency 4/23/93—published 5/12/93, effective 6/1/93]
- [Filed 6/17/93, Notice 5/12/93—published 7/7/93, effective 8/11/93]
- [Filed 9/10/93, Notice 8/4/93—published 9/29/93, effective 11/3/93]
- [Filed 11/16/94, Notice 9/14/94—published 12/7/94, effective 1/11/95]
- [Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]
- [Filed 12/28/95, Notice 11/22/95—published 1/17/96, effective 2/21/96]
- [Filed 8/22/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
- [Transferred from 345—Ch 4 to 871—Ch 24 IAC Supplement 3/12/97]
- [Filed 1/20/99, Notice 12/16/98—published 2/10/99, effective 3/17/99]²
- [Filed 7/9/99, Notice 6/2/99—published 7/28/99, effective 9/1/99]
- [Filed 10/24/01, Notice 9/19/01—published 11/14/01, effective 12/19/01]
- [Filed emergency 4/12/02—published 5/1/02, effective 4/12/02]
- [Filed 7/18/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
- [Filed 9/4/08, Notice 7/30/08—published 9/24/08, effective 10/29/08]
- [Filed ARC 8711B (Notice ARC 8583B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]

[Filed ARC 1367C (Notice ARC 1286C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]

¹ See rule 345—4.50(96)

² Effective date of 24.26(14) and 24.26(15) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 8, 1999.